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**BID DOCUMENT**

CONTRACT No. 2012-090  
MCNEILUS STEEL  
RAILROAD TRACK CONSTRUCTION  
FOND DU LAC, WI

April 1, 2013

**PREPARED FOR:**

MCNEILUS STEEL  
123 EAST LARSEN DRIVE  
FOND DU LAC, WISCONSIN 54937

**SECTION 00002  
PROJECT DIRECTORY**

PROJECT: CONTRACT No. 2012-090  
McNeilus Steel\_ Fond du Lac  
Railroad Track Construction

PROJECT LOCATION: McNeilus Steel  
Fond du Lac, Wisconsin

PROJECT SPONSOR: City of Fond du Lac  
160 South Macy Street  
Fond du Lac, Wisconsin 54935

OWNER: McNeilus Steel  
123 East Larsen Drive  
Fond du Lac, Wisconsin 54937  
Phone: (866) 223-1277  
Attn: Mr. Greg Head

ENGINEER: Via Rail Logistics, LLC  
S50 W34326 Ridgeway Drive  
Dousman, Wisconsin 53118  
Phone: (414) 405-7682  
Fax: (925) 403-5334  
Attn: Mr. Ben Guido

\*\*\*END OF SECTION\*\*\*

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**SECTION 00020**  
**INVITATION TO BID**

**PART 1: GENERAL**

1.01 PROJECT NAME

- A. Contract No. 2012-090  
Railroad Track Construction  
McNeilus Steel, Fond du Lac, Wisconsin

1.02 BID DIRECTIONS

- A. Sealed proposals for the railroad track to serve McNeilus Steel will be received by McNeilus Steel, at the City of Fond du Lac Administrative Offices, 160 South Macy Street, Fond Du Lac, Wisconsin 54935 until 2:00 p.m., CST, April 30, 2013. Faxed proposals will not be accepted. A public bid opening will be held at that time. Proposals received after the above specified time for opening will be returned unopened to the sender.
- B. The plans, specifications, and contract documents may be examined and obtained after 8:00 a.m., CST, Friday, April 5, 2013 from Via Rail Logistics, LLC. 437 Manitowoc Street, Reedsville, Wisconsin 54230. A fee of \$100 by check or money order is required for each set of documents. If plans are to be sent by mail, include a \$50.00 non-refundable fee for overnight postal service costs.
- C. Prevailing Wage Rates determined by Department of Workforce Development (DWD) shall be used for this contract.
- D. McNeilus Steel reserves the right to reject any or all Bids and to waive irregularities therein, and all bidders agree that such rejection shall be without liability on the part of the Owner or their Engineer for any penalty brought by any bidder because of such rejections, nor shall the bidders seek recourse of any kind against the Owner or their Engineer because of such rejections; and the filing of any bid in response to this invitation shall constitute an agreement of the bidder to these conditions
- E. Proposals shall be on a unit price basis.
- F. Each proposal shall be submitted on the prescribed forms and each bidder shall submit with his/her bid a Bid Bond, Certified Check or Bank Cashier's Check, or bank Draft for not less than five percent of the Bid, payable to the Owner as a guarantee that if the Bid is accepted, the bidder will execute and file the proposed Contract and Contract Performance and Payment Bonds and Insurance Certificates within 15 days after the award of the contract.

- G. No bid will be opened unless the “Bidder’s Proof of Responsibility” for 2013 is filed at least five days before the scheduled time for opening of bids. Reference is made to Section 66.0901(2) and (3) Wisconsin Statutes, latest edition. The Director of Public Works decision as to qualifications shall be final.

1.03 BASE BID

- A. Major quantities of work as follows (Note: This list is not all-inclusive, and all quantities are approximate):

NO.	ITEM	QUANTITY
1.	Mobilization/Demobilization	Lump Sum
2.	New No.10-115# Industry Turnout Construction	2 Each
3.	New No.10-115# CN Mainline Turnout Installation	1 Each
4.	115# New or No. 1 Relay Track Construction	3617 Track Feet
5.	115# New or No. 1 Relay Track Construction (located in concrete areas)	631 Track Feet
6.	115# New or No. 1 Relay Track Construction (located in crushed aggregate areas)	560 Track Feet
7.	Double Switch Point Derail Construction	1 Each
8.	Earthen Bumper Construction	3 Each

1.04 ANTICIPATED SCHEDULE

- A. Anticipated Schedule

April 16, 2013	Mandatory Pre-Bid Meeting/Site Inspection
April 30, 2013	Bids Due/Bid Opening
May 7, 2013	Notice of Award
May 21, 2013	Notice to Proceed/Preconstruction Meeting
July 9, 2013	Substantial Completion
July 16, 2013	Final Completion

\*\*\*END OF SECTION\*\*\*

**SECTION 00100**  
**INSTRUCTION TO BIDDERS**

**PART I: GENERAL**

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1.02 DEFINED TERMS

- A. Terms used in these Instructions to Bidders, which are defined in the Standard General Conditions of the Construction Contract (2007 Ed.), have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid to a Bidder. The term "Successful Bidder" means the lowest responsible bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes and award. The term "bidding Documents" includes the Invitation to Bid, Instructions to Bidders, the Bid Form, Supplementary bid forms, and the proposed Contract Documents (including all addenda issued prior to receipt of bids).

### 1.03 COPIES OF BIDDING DOCUMENTS

- A. The plans, specifications, and contract documents may be examined and obtained from Via Rail Logistics, LLC. 437 Manitowoc Street, Reedsville, Wisconsin 54230. A fee of \$100.00 by check or money order will be required for each individual set of plans and specifications. If plans are to be sent by mail, include a \$50.00 non-refundable fee for overnight postal service costs.
- B. Complete sets of bidding Documents must be used in preparing bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretation, which may develop from the use of incomplete sets of Bidding Documents.
- C. Owner and Engineer, in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining bids on the work and do not confer a license or grant for any other use.

### 1.04 QUALIFICATIONS OF BIDDERS

- A. Each Bidder shall submit with the Bid Form the information identified on the Bid Form.
- B. Each track construction contractor must be approved by the Operating Railroad.

### 1.05 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- A. It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance, or furnishing of the Work, (c) consider federal, state, and local laws and regulations that may affect cost, progress, performance, or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors, or discrepancies of the Contract Documents.
- B. Reference is made to the Supplementary Conditions for identification of:
  - 1. Those drawings of physical conditions in or relating to existing surface and subsurface conditions (except Underground Facilities) which are at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the accuracy of the technical data contained in such drawings, but not upon the completeness thereof, for the purposes of bidding or construction.
- C. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site are based upon information and data furnished to Owner and Engineer by owners of such underground facilities or



others, and Owner does not assume responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the Supplementary Conditions.

- D. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, underground facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Paragraphs 4.02, 4.03 and 4.04 of the General Conditions. (Section 00700 Specification)
- E. Before submitting a Bid, each bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies, and obtain any additional information and data which pertain to the physical conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance, or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.
- F. On request in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests, as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up, and restore the site to its former condition upon completion of such exploration.
- G. Reference is made to the Division 1 Sections for the identification of the general nature of work that is to be performed at the site by Owner or others (such as utilities and other prime contractors) that relates to the Work for which a Bid is to be submitted. On request, Owner will provide to each bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such work.
- H. The submission of a Bid will constitute an incontrovertible representation of Bidder, that Bidder has complied with every requirement of this Section 1.05 that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences, or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that the bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

#### 1.06 AVAILABILITY OF LANDS FOR WORK, ECT.

- A. The lands upon which the Work is to be performed, right-of-ways and easements for access thereto, and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures are to be obtained and paid for by Owners unless otherwise provided in the Contract Documents.

#### 1.07 INTERPRETATIONS AND ADDENDA

- A. All questions about the meaning of intent of the Contract Documents are to be directed to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda, and mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than three days prior to the date of opening Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- B. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner, Engineer, or WisDOT.

#### 1.08 BID SECURITY

- A. Each Bid must be accompanied by Bid security made payable to Owner in an amount of five percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (Form 00410) issued by a surety meeting the requirements of the General Conditions.
- B. The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, where upon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within 15 days after the Notice of Award, Owner may annul the Notice of Award and Bid security of that Bidder will be forfeited. The Bid security of the other Bidders who Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement, or the 30<sup>th</sup> day after the Bid opening, where upon the Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days of the Bid opening.

#### 1.09 CONTRACT TIMES

- A. The number of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the term “Contract Times” is defined in the General Conditions) are set forth in the Agreement.

#### 1.10 LIQUIDATED DAMAGES

- A. Provisions for liquidated damages, if any, are set forth in the Agreement.

#### 1.11 SUBSTITUTE OR “OR-EQUAL” ITEMS

- A. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or “or-equal” unless written request for approval has been submitted by the Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed item including drawings, cuts, performance and test data, and any other materials, equipment or Work that incorporation of the proposed item would require shall be included. The burden of proof of the merit of the proposed item is upon Bidder. Engineer and WisDOT’s decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

#### 1.12 SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- A. A list of Subcontractors, Suppliers, and other persons and organizations (including those who are to furnish the principal items of material and equipment) shall be submitted as identified on the Bid Form.

#### 1.13 BID FORM

- A. The Bid Form is included with the Bidding Documents. The Bid is to be submitted on the unbound copy of the Bid Form. Additional copies may be obtained from the issuing office.
- B. All blanks on the Bid Form must be completed legibly in ink or by printer. The Bid price of each item on the form must be stated in words and numerals. In case of a conflict, words will take precedent.
- C. Bids by corporations must be executed in the corporate name by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or

assistant secretary. The corporate address and state of incorporation must be shown below signature.

- D. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature, and the official address of the partnership must be shown below the signature.
- E. All names must be typed or printed below the signature.
- F. The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be typed in on the Bid Form.)
- G. The address and telephone number for communications regarding the Bid must be shown.

#### 1.14 SUBMISSION OF BIDS

- A. Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title and the designated portion of the Project for which the Bid is submitted and name and address of the Bidder and accompanied by other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.
- B. Prospective Bidders are furnished one copy of the Bidding Documents with two separate unbound copies of the Bid Form and Supplementary Bid Forms. The Bidding Documents may be retained by the Bidder. The unbound copies of the Bid Form are to be completed and submitted along with the other supplements identified in the Bid Form.
- C. Acknowledgement of any written changes or Addenda or corrections received during the bidding shall be noted on the Bid Form.

#### 1.15 MODIFICATIONS AND WITHDRAWAL OF BIDS

- A. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of the Bids.
- B. If, within 24 hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

#### 1.16 OPENING OF BIDS

- A. Bids will be opened publicly and read aloud. Only the dollar amount of “Total Items 1 through 8 inclusive”, as shown on the Bid Form, will be read aloud and considered for lowest bid consideration. An abstract of the amounts of the base Bid and major alternates (if any) may be made available to Bidders within seven days after the date of the Bid opening.

#### 1.17 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- A. All Bids will remain subject to acceptance for 45 days after the day of the Bid opening, but Owner may, in its sole discretion release any Bid prior to that date.

#### 1.18 AWARD OF CONTRACT

- A. Owner reserves the right to reject any and all Bids, to waive any and all informalities. Without limiting all generality of the foregoing, any Bid which is incomplete, or obscure or irregular, may be rejected; any Bid having erasures or corrections on the price sheet may be rejected; any Bid that omits a price on any one or more items in the price sheet will be rejected; and any proposals in which the unit prices are omitted, or in which unit prices are obviously unbalanced, may be rejected. Also, Owner reserves the right to contract with the lowest responsible bidder. Discrepancies in the multiplication of units Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.
- B. In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- D. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Work in accordance with Contract Documents to Owner’s satisfaction within the prescribed time. The Owner reserves the right to request of the successful low Bidder or Bidders an opportunity to meet after opening of Bids, but prior to award of Contract, to discuss the procedures and approach to be utilized in completion of the Contract Work. The intent of this meeting would be to determine whether the Contractor has full knowledge of the project requirements, and to determine whether the Contractor’s proposed plan of construction is in agreement with the needs and goals of the Owner.

- E. If the Contract is to be awarded, it will be awarded to the lowest responsible Bidder. The Contract price will be based solely on the prices listed on the Bid Form. The successful Bid shall remain in full force throughout the duration of the project.

#### 1.19 CONTRACT SECURITY

- A. There is contract security (i.e., payment, performance, and bid bonds) required for this work.

#### 1.20 SIGNING OF AGREEMENT

- A. When the Owner gives Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within 15 days thereafter, Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required data. Within 10 days thereafter, Owner shall deliver one fully signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of Drawings with appropriate identification.

#### 1.21 PRE-BID CONFERENCE

- A. A mandatory pre-bid conference will be scheduled for April 16, 2013 at 1:30 p.m. held at McNeilus Steel Fond du Lac. Contractors will then be given an opportunity to discuss the construction documents and project site.

#### 1.22 SALES AND USE TAX

- A. Bidder shall pay and include in lump-sum and unit-price bids all sales, consumer, use, and other similar taxes required to be paid in accordance with the laws and regulations of the place of the Project which are applicable during the performance of the Work.

#### 1.23 RETAINAGE

- A. Provisions concerning retainage and Contractors' rights to deposit securities in lieu of retainage are set forth in the Agreement.

#### 1.24 SOVEREIGN IMMUNITY

- A. Nothing in this Agreement shall be deemed as a waiver of the State of Wisconsin's sovereign immunity consistent with Wisconsin State Law.

\*\*\*END OF SECTION\*\*\*

**SECTION 00300  
BID FORM**

PROJECT: Contract No. 2012-090  
McNeilus Steel  
Railroad Track Construction

THIS BID IS SUBMITTED TO: McNeilus Steel  
c/o City of Fond du Lac  
Administrative Offices  
160 South Macy Street  
Fond du Lac, Wisconsin 54935

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
  - A. BIDDER has examined copies of all the Bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Date

Addenda Number

Signature

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- B. The undersigned Bidder offers to do all of the items of Work in the following schedule for the respective unit prices stated. The Bidder has based the bid for the unit prices on Bidder's own understanding of quantities which will be necessary to complete the work as described by the Contract Documents.
  - C. The undersigned Bidder offers to do all of the items of Work in the following schedule for the respective unit prices stated and understanding that the quantities of Work as shown on the Drawings are determined herein by the Engineer for the unit price items, and offers to do the Work at the prices stated in the following schedule.

3. BIDDER agrees that the work will be substantially complete on or before July 9, 2013 and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions on or before July 16, 2013. Bidding must comply with sequence of Work as listed in Section 01010 – Summary of Work
4. The following documents are attached to and made a condition of this Bid:
- (a) Section 00410 – Bid Bond
  - (b) Section 00420 – Bid Information Questionnaire
  - (c) Section 00421 – Disclosure of Ownership
  - (d) Section 00430 – Bidder's Qualification Statement
  - (e) Section 00440 – Subcontractor List
5. Communications concerning this Bid Shall be addressed to:

SUBMITTED on \_\_\_\_\_, 20\_\_\_\_ .

---

(Contractor Name)

---

(Signature of Authorized Representative)

---

(Title)

---

(Business Address)

---

(Telephone Number)

6. BIDDER will complete the Work for the following prices



**BASE BID**

<u>ITEM</u>	<u>APPROX.</u> <u>UNITS</u>	<u>TOTAL</u>
<b><u>Railroad Track Construction (2013)</u></b>		
1. Mobilization/Demobilization Written: _____/lump sum Numerical: _____/lump sum	LS	\$ _____
2. New No. 10-115# Industry Turnout Construction Written: _____/each Numerical: _____/each	2 EA	\$ _____
3. New No. 10-115# CN Mainline Turnout Installation Written: _____/each Numerical: _____/each	1 EA	\$ _____
4. New or No.1 Relay 115# Track Construction Written: _____/track feet Numerical: _____/track feet	3617 TF	\$ _____
5. New or No.1 Relay 115# Track Construction (located in concrete area) Written: _____/track feet Numerical: _____/track feet	631 TF	\$ _____
6. New or No.1 Relay 115# Track Construction (located in crushed aggregate area) Written: _____/track feet Numerical: _____/track feet	560 TF	\$ _____
7. Double Switch Point Derail Construction Written: _____/each Numerical: _____/each	1 EA	\$ _____
8. Earthen Bumper Construction Written: _____/each Numerical: _____/each	3 EA	\$ _____
<b>SUBTOTAL ITEMS 1 THROUGH 8 INCLUSIVE</b> Written: _____ Numerical: _____		

\*\*\*END OF SECTION\*\*\*



1. Bidder and Surety, jointly and severally, bind themselves, their Heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents, or
  - 3.2 All bids are rejected by Owner, or
  - 3.3 Owner fails to issue notice of award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default of the Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by Owner and Bidder, provided that the time for issuing notice of award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one year after Bid Due Date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

\*\*\*END OF SECTION\*\*\*

**SECTION 00420**  
**BID INFORMATION QUESTIONNAIRE**

**CONTRACTOR**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

President: \_\_\_\_\_

Regional Manager: \_\_\_\_\_

Quality Control Manager: \_\_\_\_\_

Project Field Engineer: \_\_\_\_\_

Experience: \_\_\_\_\_ Years (for Company): \_\_\_\_\_

\*\*\*END OF SECTION\*\*\*

**SECTION 00421  
DISCLOSURE OF OWNERSHIP**

- (1) **INSTRUCTIONS** On the date a Contractor submits a Bid to, or completes negotiations with, a state agency or municipality on a public works construction project, the contractor shall disclose to the state agency or municipality soliciting or negotiating the Bids the name of any “other construction business” which the Contractor, or a shareholder, officer, or partner of the Contractor, owns or has owned within the preceding three years.

This information is only required to be disclosed if the Contractor, or a shareholder, officer or partner of the Contractor, owns or has owned at least 25 percent interest in the “other construction business” on the date the Contractor submits a Bid or completes negotiations.

- (2) **DEFINITION** the term “other construction business” means any business engaged in erecting, constructing, remodeling, repairing, altering, painting, and decorating buildings, structures or facilities, and any business engaged in supplying mineral aggregate.
- (3) **NAME AND ADDRESS OF OTHER BUSINESSES** Indicate below the name(s) and address(es) of any “other construction business” which meets the criteria specified above. If none, so state.

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby state that the information contained in this document is true and accurate according to my knowledge and belief and understand that the willful falsification of any information may result in a civil or criminal penalty pursuant to the state requirements.

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Address (City, State, and Zip)

\*\*\*END OF SECTION\*\*\*

**SECTION 00430  
BIDDER'S QUALIFICATION STATEMENT**

EQUIPMENT TO BE UTILIZED ON THIS PROJECT

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PREVIOUS EXPERIENCE ON SIMILAR PROJECTS

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\*\*\*END OF SECTION\*\*\*

**SECTION 00440  
SUBCONTRACTOR LIST**

<b>Name</b>	<b>Address</b>	<b>Telephone No.</b>	<b>Approximate % of Amount</b>

\*\*\*END OF SECTION\*\*\*

**SECTION 00500**  
**AGREEMENT BETWEEN OWNER AND CONTRACTOR**  
**(EJCDC C-500, 1996 EDITION)**

*Note: This document has been modified from its original form as an EJCDC document and the user did not highlight the modifications. You are encouraged to read the document carefully and consult Legal Counsel prior to its execution.*



**EJCDC STANDARD FORM OF AGREEMENT BETWEEN OWNER AND  
CONTRACTOR ON THE BASIS OF A STIPULATED PRICE EJCDC NO. 1910-8-A-1  
(1996 EDITION)**

**THIS AGREEMENT** is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_  
by and between \_\_\_\_\_ (hereinafter called OWNER)  
and \_\_\_\_\_ (hereinafter called CONTRACTOR).

OWNER AND CONTRACTOR, in consideration of the mutual covenants hereinafter set forth,  
agree as follows:

**Article 1. WORK.**

- 1.1 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Construction of turnouts, tracks, crossings, and derails, including ballast and earthen berms.

- 1.2 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Contract No. 2012-090  
Railroad Track Construction  
McNeilus Steel Fond du Lac

**Article 2. ENGINEER.**

- 2.1 The Project has been designed by VIA RAIL LOGISTICS, LLC, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**Article 3. CONTRACT TIMES**

- 3.1 Work will be substantially completed by July 9, 2013, and completed and ready for final payment by July 16, 2013.
- 3.2 *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER Five Hundred dollars (\$500) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER Five Hundred dollars (\$500) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

#### **Article 4. CONTRACT PRICE**

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Section 00300 Bid Form, paragraph 6, Base Bid.

- 4.1 As provided in Paragraph 11.03 of the General Conditions, determinations of quantities and classification are to be made by ENGINEER as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03.B of the General Conditions.

#### **Article 5. PAYMENT PROCEDURES.**

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Contractor shall submit Applications for Payment by the 1<sup>st</sup> or 3<sup>rd</sup> Monday of each month to the ENGINEER who will process them and submit them to the City of Fond Du Lac for payment approval.

- 5.1 *Progress Payment; Retainage.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for payment as recommended by ENGINEER and approved by the Project Sponsor City of Fond Du Lac during construction as provided in paragraphs 5.1.1 and 5.1.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.3 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

- 5.1.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with Paragraph 14.02 of the General Conditions.

90% of the Work completed (with the balance being retainage).

5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price (with the balance being retainage), less such amounts as ENGINEER shall determine, or owner may withhold, in accordance with paragraph 14.02 of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER and WisDOT as provided in said Paragraph 14.07.

## **Article 6. INTEREST.**

6.1 All moneys not paid when due, as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

## **Article 7. CONTRACTOR'S REPRESENTATIONS.**

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, performance, and furnishing of the Work.

7.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in Paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site, or otherwise, which may affect cost, progress, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

- 7.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work, as indicated in the Contract Documents.
- 7.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- 7.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **Article 8. CONTRACT DOCUMENTS.**

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 8.1 This Agreement (Pages 1 to 153 inclusive)
- 8.2 Exhibits to this Agreement (Exhibits, A, B, C, D, E, and F, inclusive).
- 8.3 Performance, Payment, and Bid Bonds, identified as (Sections 00300, 00400, and 0600).
- 8.4 Notice to Proceed
- 8.5 General Conditions (Section 00700, inclusive).
- 8.6 Supplementary Conditions (Section 00800, inclusive).

- 8.7 Specifications bearing the title Division 1 General Requirements and Division 2 Site Work, as listed in table of contents thereof.
- 8.8 Drawings comprising of (Section 00860 List of Drawings, inclusive with each sheet bearing the following general title: 12KLLR01).
- 8.9 Addenda numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive.
- 8.10 CONTRACTOR's Bid (Pages \_\_\_\_\_ to \_\_\_\_\_, inclusive) marked Exhibit \_\_\_\_\_.  
(Attach Actual Bid, Ect.)
- 8.11 Documentation submitted by CONTRACTOR prior to Notice of Award (Pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
- 8.12 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to Paragraphs 3.04.A and 3.04.B of General Conditions.

The documents listed in Paragraphs 8.2 et seq. above attached to this Agreement (except as expressly noted otherwise above.

There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraphs 3.04A and 3.04.B of the General Conditions.

## **Article 9. MISCELLANEOUS**

- 9.1 Terms used in this Agreement which are defined in Article 1 of General Conditions will have the meaning indicated in the General Conditions.
- 9.2 No Assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

- 9.4 Any provision or part of the Contract Documents held to be void or unenforceable under and Law of Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf,

This Agreement will be effective on \_\_\_\_\_, 20\_\_\_\_\_(which is the effective date of the Agreement).

OWNER:

CONTRACTOR

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If OWNER is a public body, attach evidence Authority to sign and resolution or other documents authorizing execution of Agreement.

License No. \_\_\_\_\_

Agent for service of process: \_\_\_\_\_

\_\_\_\_\_  
(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

\*\*\*END OF SECTION\*\*\*

**SECTION 00573**  
**REQUEST AND CERTIFICATE FOR PAYMENT**

PROJECT: CONTRACT No. 2012-090  
McNeilus Steel, Fond du Lac

ENGINEER: Via Rail Logistics, LLC

ENGINEER'S PROJECT NO.: 12KLLR01

TO: (Owner) McNeilus Steel  
123 E. Larsen Drive  
Fond du Lac, Wisconsin 54937

CONTRACTOR:

CONTRACT FOR:

REQUEST DATE:

REQUEST NO.:

ATTN:

PERIOD FROM:

TO:

**CHANGE ORDER SUMMARY:**

Change Orders			
Subsequent Changes Orders			
Number	Approved (Date)		

\*\*\*END OF SECTION\*\*\*

**SECTION 00610**  
**CONSTRUCTION PERFORMANCE BOND**

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

**CONTRACT**

Effective Date of Agreement:

Amount:

Description (*Name and Location*):

**BOND**

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Contractor's Name and Corporate Seal

\_\_\_\_\_  
Surety's Name and Corporate Seal

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_  
Signature

Attest: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*Note: Provide execution by additional parties, such as joint ventures, if necessary.*



Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.

2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:

2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and

2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and

2.3 Owner has agreed to pay the Balance of the Contract Price to:

1. Surety in accordance with the terms of the Contract; or
2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:

3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or

3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or

3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or

2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
  - 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
  - 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 4; and
  - 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.
7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said

statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### 11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – ( <i>Name, Address and Telephone</i> ): Surety Agency or Broker: Owner's Representative ( <i>Engineer or other party</i> ):
--

\*\*\*END OF SECTION\*\*\*

**SECTION 00620**  
**CONSTRUCTION PAYMENT BOND**

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

\_\_\_\_\_  
CONTRACTOR (*Name and Address*):

\_\_\_\_\_  
SURETY (*Name, and Address of Principal Place of Business*):

\_\_\_\_\_  
OWNER (*Name and Address*):

**CONTRACT**

Effective Date of Agreement:

Amount:

Description (*Name and Location*):

**BOND**

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

\_\_\_\_\_  
(Seal)  
Contractor's Name and Corporate Seal

\_\_\_\_\_  
(Seal)  
Surety's Name and Corporate Seal

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest: \_\_\_\_\_  
Signature

Attest: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*Note: Provide execution by additional parties, such as joint venturers, if necessary.*

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
  - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2 Claimants who do not have a direct contract with Contractor:
    1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
    2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
  - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2 Pay or arrange for payment of any undisputed amounts.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (*Name, Address, and Telephone*):

Surety Agency or Broker:

Owner's Representative (*Engineer or other*):

\*\*\*END OF SECTION\*\*\*

**SECTION 00700  
GENERAL CONDITIONS  
(EJCDC C-700, 2007 EDITION)**

*Note: This document has been modified from its original form as an EJCDC document and the user did not highlight the modifications. You are encouraged to read the document carefully and consult Legal Counsel prior to its execution.*



# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

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ASSOCIATED GENERAL CONTRACTORS OF AMERICA

---

AMERICAN SOCIETY OF CIVIL ENGINEERS

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PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE

*A Practice Division of the*

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
  3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
  5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
  7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
  8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
  9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
  10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
  11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.



27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order

following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

## 52. *WisDOT*—Wisconsin Department of Transportation

### 1.02 *Terminology*

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

#### B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

#### C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

#### D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - a. does not conform to the Contract Documents; or
  - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

#### E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## **ARTICLE 2 – PRELIMINARY MATTERS**

### **2.01   *Delivery of Bonds and Evidence of Insurance***

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

### **2.02   *Copies of Documents***

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

### **2.03   *Commencement of Contract Times; Notice to Proceed***

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

### **2.04   *Starting the Work***

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

## 2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
  2. a preliminary Schedule of Submittals; and
  3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

## 2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

## 2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefore.
  2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

### **ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

#### **3.01 *Intent***

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

#### **3.02 *Reference Standards***

- A. Standards, Specifications, Codes, Laws, and Regulations
  1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
  2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

#### **3.03 *Reporting and Resolving Discrepancies***

##### **A. *Reporting Discrepancies:***

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in a public emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

*B. Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
  - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

*3.04 Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
  1. A Field Order;
  2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
  3. Engineer's written interpretation or clarification.

*3.05 Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
  1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

### 3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

## **ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS**

### 4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.



#### 4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

#### 4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;
5. then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in a public emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
  - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
  - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
  - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
  - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
  - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefore as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
  - a. reviewing and checking all such information and data;
  - b. locating all Underground Facilities shown or indicated in the Contract Documents;
  - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
  - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

*B. Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in a public emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefore as provided in Paragraph 10.05.

*4.05 Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

*4.06 Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner, Engineer, or WisDOT, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in a public emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefore as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a

result of deleting such portion of the Work, then either party may make a Claim therefore as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, City of Fond Du Lac, WisDOT and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Engineer, City of Fond Du Lac, and WisDOT and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

## **ARTICLE 5 – BONDS AND INSURANCE**

### **5.01 *Performance, Payment, and Other Bonds***

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date

the agent or attorney-in-fact signed each bond.

- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

#### 5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

#### 5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

#### 5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
  - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
  - b. by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

6. include completed operations coverage:

- a. Such insurance shall remain in effect for two years after final payment.
- b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
  2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
  3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
  4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
  5. allow for partial utilization of the Work by Owner;
  6. include testing and startup; and
  7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.



- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

## **ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES**

### **6.01   *Supervision and Superintendence***

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

### **6.02   *Labor; Working Hours***

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work

at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

#### 6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
  - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

#### 6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
  - 1. *"Or-Equal" Items:* If in Engineer's and WisDot's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in

Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
  - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
  - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
  - 3) it has a proven record of performance and availability of responsive service.
- b. Contractor certifies that, if approved and incorporated into the Work:
  - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
  - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer and WisDOT's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer and WisDOT to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefore. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer or WisDOT from anyone other than Contractor.
- c. The requirements for review by Engineer and WisDOT will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
  - 1) shall certify that the proposed substitute item will:
    - a) perform adequately the functions and achieve the results called for by the general design,
    - b) be similar in substance to that specified, and
    - c) be suited to the same use as that specified;
  - 2) will state:

- a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
    - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
    - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
  - 3) will identify:
    - a) all variations of the proposed substitute item from that specified, and
    - b) available engineering, sales, maintenance, repair, and replacement services; and
  - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer and WisDOT. Contractor shall submit sufficient information to allow Engineer and WisDOT, in Engineer and WisDOT's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer and WisDOT will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer and WisDOT will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer or WisDOT may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer and WisDOT's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer and WisDOT approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- F. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity that is not responsible (including those acceptable to Owner as indicated in Paragraph 6.06.B).
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked if the Subcontractor, Supplier, or other individual or entity is found irresponsible after due investigation. Contractor shall submit a responsible replacement for the rejected Subcontractor, Supplier, or other individual or entity. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner, WisDOT, or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
  2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in

Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, WisDOT, City of Fond Du Lac, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

#### 6.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, City of Fond Du Lac, WisDOT, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

#### 6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

## 6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner, Engineer, nor WisDOT shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefore as provided in Paragraph 10.05.

## 6.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

## 6.11 *Use of Site and Other Areas*

### A. *Limitation on Use of Site and Other Areas:*

- 1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
- 2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
- 3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, City of Fond Du Lac, WisDOT and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner,

Engineer, City of Fond Du Lac, WisDOT or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

#### 6.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer and WisDOT for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner and Wis DOT.

#### 6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when



prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

#### 6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

#### 6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

#### 6.16 *Emergencies*

- A. In public emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

## 6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer and WisDOT for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer or WisDOT may require.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer and WisDOT the services, materials, and equipment Contractor proposes to provide and to enable Engineer or WisDOT to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
- b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer or WisDOT may require to enable Engineer and WisDOT to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer and WisDOT's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:

- a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
- b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
- c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer and WisDOT for review and approval of each such variation.

*D. Engineer's Review:*

1. Engineer and WisDOT will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer and WisDOT. Engineer and WisDOT's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer and WisDOT's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer and WisDOT's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer and WisDOT's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

*E. Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer or WisDOT and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer or WisDOT on previous submittals.

**6.18** *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Owner and Contractor may agree in writing.

**6.19** *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer, and WisDOT, and their officers,

directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, Engineer, City of Fond Du Lac, and WisDOT, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the

Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### 6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner, Engineer, and WisDOT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner, Engineer and WisDOT have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer and WisDOT's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer and WisDOT's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

### **ARTICLE 7 – OTHER WORK AT THE SITE**

#### 7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefore, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
  - 1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefore as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

#### 7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
  1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
  2. the specific matters to be covered by such authority and responsibility will be itemized; and
  3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

#### 7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

## ARTICLE 8 – OWNER’S RESPONSIBILITIES

### 8.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

### 8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

### 8.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

### 8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

### 8.05 *Lands and Easements; Reports and Tests*

- A. Owner’s duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner’s identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### 8.06 *Insurance*

- A. Owner’s responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

### 8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

### 8.08 *Inspections, Tests, and Approvals*

- A. Owner’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

### 8.09 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

**ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION**

9.00 *Changes to Scope of Project*

- A. Owner and Engineer will coordinate with WisDOT in regards to any changes or modifications in scope of the project.

9.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.



### 9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

### 9.04 *Authorized Variations in Work*

- A. Engineer and WisDOT may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefore as provided in Paragraph 10.05.

### 9.05 *Rejecting Defective Work*

- A. Engineer or WisDOT will have authority to reject Work which Engineer or WisDOT believes to be defective, or that Engineer or WisDOT believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer or WisDOT will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

### 9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

### 9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work to be performed by Contractor. Engineer will review with Contractor the Engineer's determinations on such matters before rendering a written decision thereon (by recommendation of an

Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

#### 9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

### **ARTICLE 10 – CHANGES IN THE WORK; CLAIMS**

#### 10.00 *Changes to Scope of Project*

- A. Owner and Engineer will coordinate with WisDOT in regards to any changes or modifications in scope of the project.

#### 10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefore as provided in Paragraph 10.05.

#### 10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of a public emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

#### 10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
  - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) agreed to by the parties;
  - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
  - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of

executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

#### 10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

#### 10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
  - 1. deny the Claim in whole or in part;
  - 2. approve the Claim; or
  - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

## **ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **11.00      *Changes to Scope of Project***

- A. Owner and Engineer will coordinate with WisDOT in regards to any changes or modifications in scope of the project.

### **11.01      *Cost of the Work***

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
  - 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
  - 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
  - 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with

the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
  - g. The cost of utilities, fuel, and sanitary facilities at the Site.
  - h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.

- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 11.02 Allowances

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances:*

1. Contractor agrees that:

- a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
- b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the quantity of each item as indicated in the Agreement.
- B. The quantities of items of Unit Price Work are for the purpose of comparison of Bids and determining a Contract Price.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
  1. the quantity of any item of Unit Price Work performed by Contractor differs from the quantity of such item indicated in the Agreement; and
  2. there is no corresponding adjustment with respect to any other item of Work; and
  3. Contractor believes Contractor is entitled to an increase in Contract Price as a result of having incurred additional expenses or Owner believes that Owner is entitled to a decrease in Contract Price as a result of Contractor not incurring contract expenses and the parties are unable to agree as to the amount of such increase or decrease.



## ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

### 12.00 *Changes to Scope of Project*

- A. Owner and Engineer will coordinate with WisDOT in regards to any changes or modifications in scope of the project.

### 12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
  - 1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
  - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
  - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:
  - 1. a mutually acceptable fixed fee; or
  - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 10 percent;
    - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
    - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 10 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
    - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

#### 12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

#### 12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

## **ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, AND REMOVAL OF DEFECTIVE WORK**

### *13.01 Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work will be rejected.

### *13.02 Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

### *13.03 Tests and Inspections*

- A. Contractor shall give Engineer and WisDOT timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
  - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
  - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
  - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer and WisDOT with the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's, WisDOT's, and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner, WisDOT, and Engineer.

- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

#### 13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefore as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.

#### 13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

#### 13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute

resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

#### 13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. repair such defective land or areas; or
  - 2. correct such defective Work; or
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in a public emergency, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose. Payments to Contractor and Completion

## ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

### 14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

### 14.02 *Progress Payments*

#### A. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

#### B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;

- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
- 3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;

- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

*C. Payment Becomes Due:*

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

*D. Reduction in Payment:*

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
  - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
  - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
  - c. there are other items entitling Owner to a set-off against the amount recommended; or
  - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

*14.03 Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

*14.04 Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.



- B. Promptly after Contractor's notification, Owner, Contractor, Engineer, and WisDOT shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefore.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefore. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

#### 14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
  - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefore. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

#### 14.06 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer and WisDOT will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 14.07 *Final Payment*

##### A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer and WisDOT, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
  - b. consent of the surety, if any, to final payment;
  - c. a list of all Claims against Owner that Contractor believes are unsettled; and
  - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or

receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

*B. Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer and WisDOT are satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

*C. Payment Becomes Due:*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

*14.08 Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

*14.09 Waiver of Claims*

- A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

## **ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION**

### **15.01 *Owner May Suspend Work***

- A. At any time Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefore as provided in Paragraph 10.05. Work may be suspended for the following reasons:
  1. The Contractor does not furnish suitable and sufficient personnel to perform the work
  2. The Contractor does not remove from the project all personnel performing in an unskilled manner or who are intemperate or disorderly. If Owner or Engineer concludes that personnel are performing in an unskilled manner or who are intemperate or disorderly, the Engineer may direct the Contractor, in writing, to remove them from the project. Said personnel shall not return to the project without the Owner and Engineer's written consent.

### **15.02 *Owner May Terminate for Cause***

- A. The occurrence of any one or more of the following events will justify termination for cause:
  1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
  2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
  3. Contractor's repeated disregard of the authority of Engineer;
  4. Contractor's violation in any substantial way of any provisions of the Contract Documents;
  5. A national emergency that creates a shortage of materials, labor, or equipment by: reason of war conditions involving the United States; reason of orders of the federal government or its duly authorized agencies; or executive orders with respect to prosecution of war or national defense; or
  6. Orders from duly constituted authorities relating to energy conservation
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) ten days written notice of its intent to terminate the services of Contractor:

1. purchase unused materials that the Contractor has obtained and that have been inspected, tested, and accepted, at the points of delivery as the Owner and at a cost shown by receipted bills or other proper evidence;
  2. complete the Work as Owner, and WisDOT may deem expedient
  3. direct the Contractor to promptly remove equipment and supplies from the project site or other Owner property. If the Contractor does not remove the equipment and supplies as directed, the Owner or Engineer may do so at the Contractor's expense.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
1. Upon receipt of a termination notice, do not proceed with the affected bid items unless directed to do so in that notice. Complete all bid items specified in the termination notice. That work includes punch list items and all work necessary to ensure the safety of the public, to properly secure work already constructed or partially constructed, and to secure the project site. Perform this work, which may include bid items not in the original contract, the contract specifies. The contract is sufficiently complete upon completion and acceptance of all bid items specified in the termination notice, except punch list items. After completion of the punch list items and all contract-required documents, the Owner will terminate the contract by issuing a final certificate and payment. The Owner reserves the right to declare in default a Contractor who does not carry out the conditions of paragraph 15.02.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within ten days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor or Contractor's Surety from liability.

## **ARTICLE 16 – DISPUTE RESOLUTION**

### **16.01 *Methods and Procedures***

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall

be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
  - 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
  - 2. agrees with the other party to submit the Claim to another dispute resolution process; or
  - 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

## **ARTICLE 17 – MISCELLANEOUS**

### **17.01 *Giving Notice***

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
  - 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
  - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

### **17.02 *Computation of Times***

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

### **17.03 *Cumulative Remedies***

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

\*\*\*END OF SECTION\*\*\*

**SECTION 00800**  
**SUPPLEMENTARY CONDITIONS**

*Note: This document has been modified from its original form as an EJCDC document and the user did not highlight the modifications. You are encouraged to read the document carefully and consult Legal Counsel prior to its execution.*



# SUPPLEMENTARY CONDITIONS

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

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ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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EJCDC sponsoring organizations and held in trust for their benefit by NSPE.

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

SC-4.02 *Subsurface and Physical Conditions*

- A. No reports of explorations or tests of subsurface conditions at or contiguous to the Site, or drawings of physical conditions relating to existing surface or subsurface structures at the Site, are known to Owner.

SC-4.06 *Hazardous Environmental Conditions*

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

SC-5.04 *Contractor's Liability Insurance*

- A. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

- 1. Workers' Compensation, and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:

- a. State: \$ Statutory

- b. Applicable Federal (e.g., Longshoreman's): \$ Statutory

- c. Employer's Liability: \$ Statutory Minimum

- 2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- a. General Aggregate \$5,000,000

- b. Products – Completed, Operations Aggregate \$2,000,000

- c. Personal and Advertising Injury \$ N/A

d. Each Occurrence  
(Bodily Injury and Property Damage) \$2,000,000

e. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.

f. Excess or Umbrella Liability

General Aggregate \$4,000,000  
Each Occurrence \$4,000,000

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

a. Bodily Injury:

Each person \$ N/A  
Each Accident \$ N/A

b. Property Damage:

Each Accident \$ N/A

*[or]*

a. Combined Single Limit of \$2,000,000 per occurrence

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:

Each person \$ N/A  
Each Accident \$2,000,000

b. Property Damage:

Each Accident \$ N/A  
Annual Aggregate \$2,000,000

5. Employers' Liability Insurance. Bodily injury by accident:

a. Each Accident \$100,000

b. Bodily Injury by Disease:

Each Accident \$ 500,000  
Each Employee \$100,000

B. Standard Insurance Requirements:

1. The contractor may satisfy these requirements with primary insurance coverage or with excess/umbrella policies.

2. The Wisconsin Department of Transportation and City of Fond Du Lac, its officers, agents, and employees shall be named as an additional insured under the general liability and automobile liability insurance.
3. For a joint venture, limited liability company, or partnership; ensure that the bidding entity is the named insured and that coverages apply jointly and severally to its member entities.
4. Obtain coverage from insurance companies licensed to do business in the state that have an A.M. Best rating of A- or better. The cost of providing the required insurance coverage and limits is incidental to the contract.
5. The department may request proof of insurance at any time. Submit copies of insurance policies as well as associated certificates of insurance upon department request.
6. Notify the department immediately upon cancellation or initiating cancellation, whichever is earlier, or any material change in coverage. Cease operations immediately if any insurance is cancelled or reduced. Do not resume operations until the required coverage is in force.
7. The above insurance requirements apply with equal force whether the contractor or a subcontractor, or anyone directly or indirectly employed by either, performs work under the project.

SC-5.06      *Property Insurance*

A. Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof. Contractor shall be responsible for any deductible or self-insured retention. This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, Engineer, and Project Sponsor and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or loss payee;
2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by these Supplementary Conditions.

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
5. allow for partial utilization of the Work by Owner;
6. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued; and
7. comply with the requirements of Paragraph 5.06.C of the General Conditions.

### **Special Provisions**

#### **WisDOT 107.17.3 Railroad Insurance Requirements**

(1) Provide or arrange for a contractor, and subcontractor to provide railroad protective liability insurance in addition to the types and limits of insurance required in 107.26. Keep railroad protective liability insurance coverage in force until completing all work, under or incidental to the contract, on the railroad right of way or premises of the railroad and until the department has accepted the work as specified in WisDOT 105.11.2.4.

(2) Provide railroad protective liability insurance coverage written as specified in 23 CFR part 646 subpart A. Provide a separate policy for each railroad owning tracks on the project. Ensure that the railroad protective liability insurance policies provide the following minimum limits of coverage:

1. Coverage A, bodily injury liability and property damage liability; \$2 million per occurrence.
2. Coverage B, physical damage to property liability; \$2 million per occurrence.
3. An annual aggregate amount of \$6 million that shall apply separately to each policy renewal or extension.

(3) Obtain coverage from insurance companies licensed to do business in Wisconsin that have an A.M. Best rating of A- or better. The cost of providing the required insurance coverage and limits is incidental to the contract.

(4) Submit the following to each railroad owning tracks on the project as evidence of that railroad's respective coverage:

1. A certificate of insurance for the types and limits of insurance specified in 107.26.

2. The railroad protective liability insurance policy or other documentation acceptable to the railroad company.

(5) Submit the following to WisDOT as evidence of the required coverage:

1. A copy of the letter to the railroad company transmitting the submittal documents specified in WisDOT 107.17.3(4).

2. A certificate of insurance for the required railroad protective liability coverages.

(6) Do not begin work on the right of way or premises of the railroad company until WisDOT receives the submittals specified in WisDOT 107.17.3(5) and notification from the railroad company that the contractor has provided sufficient insurance information to begin work.

(7) Notify the railroad immediately upon cancellation or initiating cancellation, whichever is earlier, or any material change in coverage. Cease operations within 50 feet of the railroad right of way immediately if insurance is cancelled or reduced. Do not resume operations until the required coverage is in force.

\*\*\*END OF SECTION\*\*\*

**SECTION 00805**  
**Wage Rates**

*See Attachment – Exhibit B*



**SECTION 00830**  
**Notice to Bidders**

WAGE RATE DECISION

The wage rate decision of the Secretary of Labor which has been incorporated in these advertised specifications is incomplete in that the classifications may be omitted from the Secretary of Labor's decision.

Since the Bidder is responsible, independently, for ascertaining area practice with respect to the necessity, or lack of necessity, for the use of these classifications in the prosecution of the Work contemplated by this project, no inference may be drawn from the omission of these classifications concerning prevailing area practices relative to their use. Further, this omission will not, per se, be construed as establishing any governmental liability for increased labor cost if it is subsequently determined that such classifications are required.

There may be omissions and/or errors in the federal wage rates. The Bidder is responsible for evaluating and determining the correct applicable rate. The higher of state or federal rate will apply.

\*\*\*END OF SECTION\*\*\*

**SECTION 00860**  
**LIST OF DRAWINGS**

<u>Drawing No.</u>	<u>Title</u>
R-1	12KLLR01 - Title Sheet
R-2	12KLLR01 - Track 1 Plan and Profile
R-3	12KLLR01 - Track 2 and 3 Profiles
R-4	12KLLR01 - Typical Track Details
X-1	12KLLR01 - Track Cross Sections 0+00 to 6+00
X-2	12KLLR01 - Track Cross Sections 7+00 to 14+00
X-3	12KLLR01 - Track Cross Sections 15+00 to 20+00
X-4	12KLLR01 - Track Cross Sections 21+00 to 24+46

\*\*\*END OF SECTION\*\*\*

**SECTION 00920  
NOTICE OF AWARD**

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Owner: \_\_\_\_\_

Owner's Contract No.: \_\_\_\_\_

Contract: \_\_\_\_\_

Engineer's Project No.: \_\_\_\_\_

Bidder: \_\_\_\_\_

Bidder's Address: *[send Notice of Award Certified Mail, Return Receipt Requested]*

You are notified that your Bid dated \_\_\_\_\_ for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for \_\_\_\_\_

*[Indicate total Work, alternates, or sections of Work awarded.]*

The Contract Price of your Contract is \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

*[Insert appropriate data if unit prices are used. Change language for cost-plus contracts.]*

\_\_\_\_\_ copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

\_\_\_\_\_ sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner [\_\_\_\_\_] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] as specified in the Instructions to Bidders (Paragraph 1.20), and General Conditions (Paragraph 5.01).
3. Other conditions precedent: \_\_\_\_\_

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

\_\_\_\_\_  
Owner

By: \_\_\_\_\_

Authorized Signature

\_\_\_\_\_  
Title

\*\*\*END OF SECTION\*\*\*

**SECTION 00930  
NOTICE TO PROCEED**

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Owner: \_\_\_\_\_

Owner's Contract No.: \_\_\_\_\_

Contract: \_\_\_\_\_

Engineer's Project No.: \_\_\_\_\_

Contractor's Address: *[send Certified Mail, Return Receipt Requested]*

You are notified that the Contract Times under the above Contract will commence to run on \_\_\_\_\_. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the date of Substantial Completion is \_\_\_\_\_, and the date of readiness for final payment is \_\_\_\_\_ [(or) the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

\_\_\_\_\_  
(OWNER)

BY: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)

\_\_\_\_\_  
(TITLE)

**NOTIFICATION TO PROCEED**

\_\_\_\_\_  
(CONTRACTOR)

By: \_\_\_\_\_  
(AUTHORIZED SIGNATURE)

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(DATE)

\*\*\*END OF SECTION\*\*\*

**SECTION 00950  
CHANGE ORDER**

No. \_\_\_\_\_

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Project:	Owner:	Owner's Contract No.:
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:

**The Contract Documents are modified as follows upon execution of this Change Order:**

Description: \_\_\_\_\_

**Attachments (list documents supporting change):**

<b>CHANGE IN CONTRACT PRICE:</b>	<b>CHANGE IN CONTRACT TIMES:</b>
Original Contract Price:  \$ _____  [Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:  \$ _____  Contract Price prior to this Change Order:  \$ _____  [Increase] [Decrease] of this Change Order:  \$ _____  Contract Price incorporating this Change Order:  \$ _____	Original Contract Times: <input type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (days or date): _____ Ready for final payment (days or date): _____  [Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____:  Substantial completion (days): _____ Ready for final payment (days): _____  Contract Times prior to this Change Order: Substantial completion (days or date): _____ Ready for final payment (days or date): _____  [Increase] [Decrease] of this Change Order: Substantial completion (days or date): _____ Ready for final payment (days or date): _____  Contract Times with all approved Change Orders: Substantial completion (days or date): _____ Ready for final payment (days or date): _____

<b>RECOMMENDED:</b> By: _____ Engineer (Authorized Signature) Date: _____	<b>ACCEPTED:</b> By: _____ Owner (Authorized Signature) Date: _____	<b>ACCEPTED:</b> By: _____ Contractor (Authorized Signature) Date: _____
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\*\*\*END OF SECTION\*\*\*

**SECTION 00960**  
**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Project:

Owner:

Owner's Contract No.:

Contract:

Engineer's Project No.:

**This [tentative] [definitive] Certificate of Substantial Completion applies to:**

☐ All Work under the Contract Documents:      ☐ The following specified portions of the Work:

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\_\_\_\_\_  
Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby declared and is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

A [tentative] [definitive] list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as provided in the Contract Documents except as amended as follows:**

☐ Amended Responsibilities      ☐ Not Amended

Owner's Amended Responsibilities:

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Contractor's Amended Responsibilities:

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The following documents are attached to and made part of this Certificate:

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This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Executed by Engineer	Date
Accepted by Contractor	Date
Accepted by Owner	Date

\*\*\*END OF SECTION\*\*\*

## **SECTION 01010 SUMMARY OF WORK**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Work by Contractor.
- B. Work by Others.
- C. Contractor Use of Site.

#### **1.02 WORK BY CONTRACTOR**

- A. The work to be done under this Contract Document includes, but is not necessarily limited to furnishing all labor, tools, equipment, materials, supplies, supervision, and administration for performing the following work:

##### **BASE BID**

- 1. Mobilization/Demobilization.
  - 2. New No. 10-115# Industry Turnout Construction
  - 3. New No. 10-115# CN Mainline Turnout Installation
  - 4. New or No.1 Relay 115# Track Construction
  - 5. New or No.1 Relay115# Track Construction located in Concrete area
  - 6. New or No.1 Relay 115# Track Construction located in Crushed Aggregate area
  - 7. Double Switch Point Derail Construction
  - 8. Earthen Bumper Construction
- B. The summary of work described above is an overall summary of the work to be performed and the responsibilities of the Contractor. It does not supersede the specific requirements of the Contract Documents.
- C. These specifications are in many instances written in imperative and streamlined form. This imperative language is directed to the Contractor, unless specifically noted otherwise.



### 1.03 WORK BY OTHERS

- A. The work to be performed by Owner or Owner's designated representatives is as follows:
  - 1. General observation of work for conformance to specifications.
  - 2. Construction staking is described in Section 01050 – Field Engineering.
  - 3. Any building construction.
  - 4. Any utility construction, other than drain tile construction.
  - 5. Finish pavement construction.

### 1.04 CONTRACTOR USE OF SITE

- A. Confine operations at site to areas permitted by law, ordinances, permits, and Contract Documents.
- B. Assume full responsibility for protection and safekeeping of material and products stored on or off premises.
- C. Move any stored material or products, which interfere with operations of Owner or other Contractors.
- D. Obtain and pay for use of additional storage or work areas needed for operation.
- E. Use of Site: Exclusive and complete for execution of work, provided access, material, storage, and construction meet with property owner's approval and operating requirements.
- F. All work must be coordinated with the Canadian National Railroad, McNeilus Steel, other contractors on site, and others nearby, to assure compatibility of services and to avoid any operational interference.
- G. Before commencing any Work on Railroad property, obtain any Railroad permits or procedures required.

### 1.05 SEQUENCE OF WORK

- A. Coordinate construction schedule and operations with Engineer and Railroad.
- B. Construction must be completed in accordance with the schedule in Section 00500.

\*\*\*END OF SECTION\*\*\*

**SECTION 01025  
MEASUREMENT AND PAYMENT**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

- A. Measurement and payment criteria applicable to the Work performed under a unit price payment method.
- B. Defect assessment and non-payment for rejected Work.

**1.02 AUTHORITY**

- A. Measurement methods delineated in the individual specification sections are intended to complement the criteria of this section.
- B. Contractor will take all measurements and compute quantities accordingly. Engineer has option to confirm any and all measurements and/or quantities.
- C. Assist by providing necessary equipment, workers, and survey personal as required.

**1.03 UNIT QUANTITIES SPECIFIED**

- A. Quantities and measurement indicated in the Bid Form are for bidding and contract purposes.
- B. If the actual Work requires more or fewer quantities than those quantities indicated, provide the required quantities at the unit sum/prices contracted.

**1.04 MEASUREMENT OF QUANTITIES**

- A. Stipulated Unit Price Measurement: Items measured by linear means as a completed item or unit of the Work.
- B. Measurement Devices:
  - 1. Weight Scales: Inspected, tested, and certified by the applicable State Weights and Measures department within the past year.
  - 2. Platform Scales: Of sufficient size and capacity to accommodate the conveying vehicle.

3. Metering Devices: Inspected, tested, and certified by the applicable State department within the past year.
- C. Measurement by Weight: Concrete reinforcing steel, rolled or formed steel or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook or scale weight.
- D. Measurement by Volume: Measured by cubic dimension using mean length, width, and height or thickness.
- E. Measurement by Area: Measured by square dimension using mean length and width or radius.
- F. Linear measurement: Measured by linear dimension, at the item centerline or mean chord.

#### 1.05 PAYMENT

- A. Submit monthly payment requests to Engineer in accordance with Section 00500.
- B. Payment Includes: Full compensation for all required labor, products, tools, equipment, plant, transportation, services and incidentals; erection, application or installation of an item of Work; overhead and profit.
- C. Final payment for Work governed by unit prices will be made on the basis of the actual measurements and quantities accepted by the Engineer multiplied by the unit sum/price for Work which is incorporated in or made necessary by the Work.

#### 1.06 DEFECT ASSESSMENT

- A. Replace the Work, or portions of the Work, not conforming to specified requirements.

#### 1.07 NON-PAYMENT FOR REJECTED PRODUCTS

- A. Payment will not be made for any of the following:
  1. Products wasted or disposed of in manner that is not acceptable to the Engineer or Owner.
  2. Products determined as unacceptable before or after placement.
  3. Products not completely unloaded for the transporting vehicle.
  4. Products placed beyond the lines and levels of the required Work.
  5. Products remaining on hand after completion of the Work.
  6. Loading, hauling, and disposing of rejected Products.

## 1.08 CONTRACT ITEMS

### A. Base Bid Items

1. Mobilization/Demobilization
  - a. Payment for mobilization/demobilization shall be by lump sum (LS), which price shall be full compensation for the completion of this item (as described in Section 01505), as well as insurance costs (as described in Section 00800), field engineering (as described in Section 01050), testing and submittals (as described in Section 01300 and 01410), construction facilities and temporary controls (as described in Section 01500), project closeout (as described in Section 01705), bonding, flagging, permits, coordination, project meetings/management and other miscellaneous costs.
2. New No. 10-115# Industry Turnout Construction
  - a. Payment for New No. 10-115# industry turnout construction shall be by each (EA) turnout constructed, which price shall be full compensation for providing, coordinating the purchase and installation of new turnout components, switch ties, closure rails, fasteners, anchors, switch stand, ballast, walkways, and incidentals, including labor, equipment and tools necessary in obtaining New No. 10-115# turnout construction as indicated on the drawings and meeting the approval of the Operating Railroad (permitting, flagging protection, construction requirements, etc.).
3. New No. 10-115# CN Mainline Turnout Installation
  - a. Payment for New No. 10-115# CN turnout installation shall be by each (EA) turnout constructed and installed, which price shall be full compensation for installing railroad procured new CN mainline turnout material, railroad procured switch ties and OTM. Contractor to purchase and install ballast, walkway stone, lubricant, including all equipment, tools, labor, and incidentals necessary in installing New No. 10-115# CN mainline turnout per CN Specifications.
4. New or No.1 Relay 115# Track Construction
  - a. Payment for New or No.1 Relay 115# track construction shall be by each track foot (TF) constructed, as measured along the centerline of the track, which price shall be full compensation for providing, coordinating purchase and installation of New or No. 1 Relay 115# RE rail, ballast, ties, tie plates, joint bars, rail anchors, lubricant, fasteners, including equipment, tools, labor, and incidentals necessary in obtaining track construction as indicated

on the drawings and meeting the approval of the Operating Railroad (permitting, flagging protection, etc.).

5. New or No.1 Relay 115# Track Construction (located in concrete area)
  - a. Payment for New or No.1 Relay 115# track construction in concrete shall be by each track foot (TF) constructed, as measured along the centerline of the track, which price shall be full compensation for providing, coordinating purchase and installation of New or No. 1 Relay 115# RE rail, ballast, ties, tie plates, weld kits, rail anchors, lubricant, fasteners, including equipment, tools, labor, and incidentals necessary in obtaining track construction as indicated on the drawings and meeting the approval of the Operating Railroad (permitting, flagging protection, construction requirements, etc.). Rail joints must be welded in all track construction located in concrete areas. Concrete and flangeway protection to be installed by others.
6. New or No.1 Relay 115# Track Construction (located in crushed aggregate area)
  - a. Payment for crossing construction shall be by each track foot (TF) constructed, as measured along the centerline of the track, which price shall be full compensation for providing, coordinating purchase and installation of New or No. 1 Relay 115# RE rail, ballast, ties, tie plates, weld kits, rail anchors, lubricant, fasteners, crossing guard timbers, including equipment, fastening, tools, labor, and incidentals necessary in obtaining track crossing as indicated on the drawings and meeting the approval of the Operating Railroad (permitting, flagging protection, construction requirements, etc.). Crushed aggregate in crossing to be installed by others.
7. Double Switch Point Derail Construction
  - a. Payment for double switch point derail construction shall be each (EA) derail constructed, which price shall be full compensation for providing, coordinating purchase and installation of all materials, ballast, equipment, tools, labor, and incidentals necessary in obtaining double switch point derail construction as indicated on the drawings and meeting the approval of the Operating Railroad.
8. Earthen Bumper Construction
  - a. Payment for earthen bumper construction shall be by each (EA) earthen bumper constructed, which price shall be full compensation for providing, coordinating purchase and installation of the earthen bumper material, including equipment, tools, labor, and incidentals necessary in obtaining earthen bumper construction as indicated on the drawings and meeting the approval of the Operating Railroad.

\*\*\*END OF SECTION\*\*\*

## **SECTION 01050 FIELD ENGINEERING**

### **PART 1 GENERAL**

#### **1.01 SUMMARY**

- A. Proposed Work will be staked once, by Engineer, at no expense to the Contractor. Should Contractor request re-staking, this Work will be done by as Engineer's schedule permits and at the expense of the Contractor. Contractor shall notify Engineer at least three days prior to start of Work when making periodic requests for line and grade stakes.
  - 1. Engineer will provide survey stakes for:
    - a. Final track alignment and grade.
  - 2. Contractor shall maintain survey stakes.

#### **1.02 PRIMARY LINE AND GRADE**

- A. Primary line and grade will be provided by Owner and established by Engineer by means of stakes place at site of Work.
- B. Contractor shall:
  - 1. Provide assistance as required.
  - 2. Arrange operations to avoid interference with establishment of primary lines and grades.
  - 3. Check accuracy of line and grade by visual inspection, checks between stakes, and periodic checks (with surveying equipment) between primary control monuments and stakes.
  - 4. Notify Engineer minimum three working days prior to start of construction when making requests for primary line and grade stakes.
  - 5. Be responsible for protection and preservation of stakes. Re-staking will be conducted by Contractor at Contractor's expense.

#### **1.03 CONSTRUCTION LINE AND GRADE**

- A. Transfer construction lines and grades primary line and grade points.

\*\*\*END OF SECTION\*\*\*

## **SECTION 01300 SUBMITTALS**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Submittal procedures
- B. Schedule of submittals.
- C. Construction progress schedules.

#### **1.02 SUBMITTAL PROCEDURES**

- A. Transmit each submittal under a cover letter or transmittal form of the Contractor.
- B. Sequentially number the transmittal form. [Revise submittals with original number and a sequential alphabetic suffix.]
- C. Identify Project, Contractor, Sub-Contractor, or Supplier; pertinent drawing and detail number; and specification section number, as appropriate.
- D. Apply Contractor's stamp, signed or initialed certifying that the review, verification of Products required, field dimensions, adjacent construction Work, and coordination of information is in accordance with the requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite the Project, and deliver to Engineer.
- F. For each submittal for review, allow 15 days excluding delivery time to and from the Contractor
- G. Identify variations from Contract Documents and Product of system limitations, which may be detrimental to successful performance of the completed Work.
- H. Provide space for Contractor and Engineer review stamps.
- I. Revise and resubmit and identify all changes made since previous submission.
- J. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report any inability to comply with provisions.
- K. Submittals not requested will not be recognized or processed.

### 1.03 SCHEDULE OF SUBMITTALS

- A. Provide submittals and information as identified in the following table. Submittals not listed in the table, but included elsewhere in these Contract Documents, do not relieve the Contractor from providing the submittal.

<u>Submittal</u>	<u>Specification Reference</u>	<u>Submittal Frequency or Time Frame</u>
Construction Schedule	01300	Within 15 days after Notice to Proceed Revise with each Application for Payment
Product List	01600	Within 15 days after Notice to Proceed
Ballast Testing/Gradation	02450	Within 15 days after Notice to Proceed
Rail Weld Testing	02450	Within 5 days after completion of weld

### 1.04 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit initial schedule in duplicate within 15 days after date established in Notice to Proceed.
- B. Revise and resubmit as required.
- C. Submit revised schedules with each Application for Payment, identifying changes since previous version.
- D. Submit a horizontal bar chart with separate line for each major section of Work or operation, identifying first workday of each week.

\*\*\*END OF SECTION\*\*\*



**SECTION 01505  
MOBILIZATION AND DEMOBILIZATION**

**PART 1 GENERAL**

1.01 SECTION INCLUDES

- A. Mobilization/Demobilization.
- B. Bonds: Performance, Payment, and Bid Bonds
- C. Insurance: As specified in the Contract Documents.

1.02 MOBILIZATION/DEMOBILIZATION

- A. Furnish labor, equipment, and materials and perform all operations necessary to move personnel, equipment, suppliers, and incidentals to the project site to perform all work that must be performed before beginning work on the various items which payment is provided.
- B. Remove all equipment from the project site after it is no longer necessary.
- C. All clean up necessary to restore applicable portions of the project site equal to or better than original status.

1.03 BONDS

- A. Performance, Payment, Bid Bonds are required for this project.

1.04 INSURANCE

- A. Insurance obtained specifically for this project in accordance with the Contract Documents

\*\*\*END OF SECTION\*\*\*

## **SECTION 01600 MATERIALS AND EQUIPMENT**

### **PART 1 GENERAL**

#### **1.01 SUMMARY**

- A. This Section includes administrative and procedural requirements governing the Contractor's selection of products for use in the Project.
- B. Related Sections
  - 1. Division 1 Section "Submittals" specifies requirements for submittal of the Contractor's Construction Schedule and Submittal Schedule.
  - 2. Division 1 Section "Substitutions" specifies administrative procedures for handling requests for substitutions made after award of the Contract.

#### **1.02 DEFINITIONS**

- A. Definitions used in this Article are not intended to change the meaning of other terms used in the Contract Documents such as "specialists," "structure," "finishes," "accessories," and similar terms. Such terms are self-explanatory and have well-recognized meanings in the construction industry.
  - 1. "Products" are items purchased for incorporation in the Work, whether purchased for the Project or taken from previously purchased stock. The term "product" includes the terms "material," "equipment," "system," and terms of similar intent.
    - a. "Named Products" are items identified by the manufacture's product name, including make or model number or other designation, shown or listed in the manufacture's published product literature, which is current as of the date of the Contract Documents.
    - b. "Materials" are products substantially shaped, cut, worked, mixed, finished, refined or otherwise fabricated, processed or installed to form a part of the Work.
    - c. "Equipment" is a product with operational parts, whether motorized or manually operated, that requires service connections, such as wiring or piping.

### 1.03 SUBMITTALS

- A. Product List – Within 15 days after the execution of the Contract or receipt of a written Notice to Proceed, whichever is earlier, Contractor shall submit a complete list of major products proposed for use in the Work.
  - 1. Coordinate product list with the Contractor's Construction Schedule and the Schedule of Submittals.
  - 2. Form: Prepare product list with information on each item tabulated under the following column headings:
    - a. Related Specification Section number.
    - b. Generic name used in Contract Documents.
    - c. Proprietary name, model number, and similar designations.
    - d. Manufacture's name and address.
    - e. Supplier's name and address.
    - f. Installer's name and address.
    - g. Projected delivery date or time span of delivery period.
  - 3. Engineer/Architect's Action: The Engineer/Architect will respond in writing to Contractor within 2 weeks of receipt of the completed product list. No response within this period constitutes no objection to listed manufactures or products comply with Contract Documents. The Engineer/Architect's response will include a list of unacceptable product selections, containing a brief explanation of reasons for this action.

### 1.04 MATERIALS – QUALITY ASSURANCE

- A. It is the intent of these specifications to procure to a quality product by an established manufacture of the latest design. All components of systems shall be engineered for long, continuous, uninterrupted service. The cost of the equipment shall include all royalties and costs arising from patents and licenses associated with furnishing the specified equipment.
- B. All materials shall be designated to withstand stresses encountered in continuous operation, fabrication and erection. All equipment shall be of corrosion-resistant materials or shall be suitably protected by the supplier with corrosion-resistant

industrial coatings. Provisions shall be made for ease of lubrication, adjustment and replacement of parts.

- C. Material for which no detailed specifications are given shall:
  - 1. Meet the particular industry standard for the material used.
  - 2. Meet the specification of ASTM, ANSI, or SAE for metals and plastics for the use intended.
  - 3. Not be used unless it has previously been used for a like purpose for a sufficient length of time in the field or under field simulated laboratory conditions to demonstrate its successful use.
- D. Source Limitations – To the fullest extent possible, provide products of the same kind from a single source.
  - 1. When specified products are available only from sources that do not, or cannot, produce a quantity adequate to complete project requirements in a timely manner, consult with the Engineer/Architect to determine the most important product qualities to consider before proceeding. Qualities may include attributes, such as visual appearance, strength, durability, or compatibility. When a determination has been made, select products from sources producing products that possess these qualities, to the fullest extent possible.
- E. Compatibility of Options – When the Contractor is given the option of selecting between 2 or more products for use on the Project, the product selected shall be compatible with the products previously selected, even if previously selected products were also options.

#### 1.05 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle products according to the manufacture's recommendations, using means and methods that will prevent damage, deterioration, and loss, including theft.
  - 1. Schedule delivery to minimize long-term storage and to prevent overcrowding of construction spaces.
  - 2. Coordinate delivery with installation time to assure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
  - 3. Provide equipment and personnel to handle products by methods that avoid soiling or damage.

4. Deliver products to the site in an undamaged condition in the manufacture's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
5. Inspect products upon delivery to ensure compliance with the Contract Documents and to ensure that quantities are correct, products are undamaged, and properly protected. Inform the Engineer or Owner before the inspection occurs so that they may participate in the inspection if so desired.
6. Store products at the site in a manner that will facilitate inspection and measurement of quantity or counting of units. Seals and labels shall be intact and legible.
7. Store products in accordance with manufacturer's instructions. Store heavy materials away from the Project structure in a manner that will not endanger the supporting construction.
8. Store products subject to damage by the elements above ground, under cover in a weather-tight enclosure, with ventilation adequate to prevent condensation. Maintain temperature and humidity within range required by manufacturer's instructions.
9. Arrange for fabricated times or products stored outside to be placed on sloped supports above the ground. Items subject to deterioration shall be covered by weather proof sheet covering which is ventilated to prevent condensation.
10. Store loose granular materials on solid surfaces, which are well drained and prevent contamination by foreign matter.
11. Arrange for periodic inspection of stored materials to insure that materials remain undamaged and are maintained under required conditions.
12. All shipment, delivery and storage charges shall be at the expense of the contractor.

## **PART 2 PRODUCTS**

### **2.01 PRODUCT SELECTION**

- A. General Product Requirements - Provide products that comply with the Contract Documents that are undamaged, and, unless otherwise indicated, new are the time of installation.

1. Provide products complete with accessories, trim, finish, safety guards, and other devices and details needed for a complete installation and the intended use and effect.
  2. Standard Products: Where available, provide standard products of types that have been produced and used successfully in similar situations on other products.
- B. Product Selection Procedures – The Contract Documents and governing regulations govern product selection. Procedures governing product selection include the following:
1. Proprietary Specification Requirements: Where Specifications name only a single product or manufacturer, provide the product indicated. No substitutions will be permitted.
  2. Semi-proprietary Specifications Requirements: Where Specifications name 2 or more products or manufacturers, provide one of the products indicated. No substitutions will be permitted.
    - a. Where Specifications specify products or manufactures by name, accompanied by the term “or equal” or “or approved equal,” comply with the Contract Document provisions concerning “Substitutions” to obtain approval for use of an unnamed product.
  3. Descriptive Specification Requirements: Where Specifications describe a product or assembly, listing exact characteristics required, with or without use of a brand or trade name, provide a product or assembly that provides the characteristics and otherwise complies with Contract requirements.
  4. Performance Specifications Requirements: Where Specifications require compliance with performance requirements, provide products that comply with these requirements, provide products that comply with these requirements and recommended by the manufacturer for the application indicated.
    - a. Manufacturer’s recommendations may be contained in published product literature or by the manufacturer’s certification of performance.
  5. Compliance with Standards, Codes, and Regulations: Where Specifications only require compliance with an imposed code, standard, or regulation, select a product that complies with the

standards, codes, or regulations specified.

6. Visual Matching: Where Specifications require matching an established Sample, the Engineer/Architect's decision will be final on whether a proposed product matches satisfactorily.
  - a. Where no product available within the specified category matches satisfactorily and complies with other specified requirements, comply with provisions of the Contract Documents concerning "Substitutions" for selection of matching product in another product category.
7. Visual Selection: Where specified product requirements include the phrase "...as selected from the manufacture's standard colors, patterns, textures..." or a similar phrase, select a product and manufacturer that complies with other specified requirements. The Engineer/Architect will select the color, pattern, and texture from the product line selected.
8. Allowances: Refer to individual Specification Section and "Allowances" provisions in Division 1 for allowances that control product selection and for procedures required for processing such selections.

## **PART 3 EXECUTION**

### **3.01 INSTALLATION OF PRODUCTS**

- A. Comply with manufacturer's instructions and recommendations for installation of products in the applications indicated. Anchor each product securely in place, accurately located and aligned with other Work.
  1. Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.

### **3.02 FIELD QUALITY CONTROL**

- A. Qualifications of Manufacturers Field Personnel
  1. Personnel shall be authorized by the manufacturer to erect start-up and initiate warranty of the equipment provided.
  2. Personnel shall come to the site with the required tools and electrical instruments.

3. Personnel shall have full knowledge of electrical controls pertaining to the equipment and control panels furnished.
4. Failure to provide personnel with full qualifications shall be cause for service trip to be disqualified as part of the requirements and may be cause for reimbursement for costs incurred by the Owner due to services required for a qualified start up inspection.

\*\*\*END OF SECTION\*\*\*



## **SECTION 01705 PROJECT CLOSEOUT**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Closeout procedures.
- B. Procedures at substantial completion.
- C. Inspection procedures
- D. Maintenance and final cleanup.
- E. Final acceptance procedures.

### **PART 2 PRODUCTS**

- A. Not Used.

### **PART 3 EXECUTION**

#### **3.01 CLOSEOUT PROCEDURES**

- A. General: The provisions of this section apply primarily to closeout of the actual physical work, not to administrative matters such as final payment and changeover of insurance. Closeout requirements relate to both final completion and substantial completion of work, and apply to individual portions of completed work as well as the total work. Specific requirements in other sections have precedence over general requirements of this section.
- B. Contractor shall retain ownership of work until substantial completion.

#### **3.02 PROCEDURES AT SUBSTANTIAL COMPLETION**

- A. Prerequisites: Comply with General Conditions and complete the following before requesting Engineer's inspection of the work, or designated portion thereof, for substantial completion.
- B. Submit executed warranties, workmanship bonds, maintenance agreements, inspection certificates and similar required documentation for specific units of work, enabling Owner's unrestricted occupancy and use.

- C. Submit as-built drawings, maintenance manuals, tools, spare parts, keys and similar operational items.
- D. Complete final cleanup and remove temporary facilities and tools.

### 3.03 INSPECTION PROCEDURES

- A. Upon receipt of Contractor's request, Engineer and WisDOT will either proceed with inspection or advise Contractor of prerequisites not fulfilled. Following initial inspection, Engineer will either prepare certificate of substantial completion, or advise Contractor of work which must be performed prior issuance of certificate; and repeat inspection when requested and assured that work has been performed from initial "punch-list" for final acceptance.
- B. Track is to be inspected and approved, prior to operation of rail cars, by the Operating Railroad Engineering Inspector.

### 3.04 MAINTENANCE AND FINAL CLEANUP

- A. Final disposal of debris, waste materials and other remains or consequences of construction shall be accomplished intermittently as new construction items are completed and shall not be left to await final completion of all work. Cleanup operations shall be considered as being a part of the work covered under the Contract items involved and only that work, which cannot be accomplished at any other time, shall be considered as final cleanup work not attributable to a specific Contract Item.
- B. If disposal operations and other cleanup work are not conducted properly as the construction progresses, the Engineer may withhold partial payments until such work is satisfactorily pursued or he may deduct the estimated cost of its performance from the partial estimate value.

### 3.05 FINAL ACCEPTANCE PROCEDURES

- A. Upon receipt of Contractor's notice that work has been completed, including punch-list items resulting from earlier inspections, and expecting incomplete items delayed because of acceptable circumstances, Engineer will re-inspect work. Upon completion of re-inspection, Engineer and WisDOT will either recommend final acceptance and final payment, or advise Contractor of work not completed or obligations not fulfilled as required for final acceptance. If necessary, procedure will be repeated.

\*\*\*END OF SECTION\*\*\*

## **SECTION 02450 TRACK CONSTRUCTION**

### **PART 1 GENERAL**

#### **1.01 DESCRIPTION**

- A. All Work performed under these specifications shall be in accordance with the American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railroad Engineering current edition; hereinafter known as the AREMA Manual. Work performed must also adhere to CN Industrial Track Specifications latest edition hereinafter known as the CN Specifications. Work performed must also adhere to WisDOT Standard Specifications for Jointed Railroad Track Construction and Maintenance (March 2012 Edition) hereinafter known as the WisDOT Specifications, State of Wisconsin Standard Specifications for Highway and Structure Construction (2013 Edition). In the event that discrepancies arise between the AREMA Manual, CN Specifications and WisDOT Specifications, the most stringent requirements shall be met.
- B. Furnish all materials, labor, equipment, tools, transportation, accessories, services and incidentals to complete the Work shown on the drawings and described herein; all in accordance with the provisions of the Contract Documents. The plans describe the materials to be provided by the Contractor.
  - 1. Items included in this section:
    - a. Furnish and construct a railroad industrial track from the point of switch to the end of the track, as shown on the plans including making necessary switch connections with the existing track. Also included in this section, is furnishing and constructing additional rail infrastructure and associated turnouts as shown on the plans.
    - b. Furnish and install all auxiliary specialty items shown on the plans, such as; wheel stops, bumping post, hinged derail, split switch point derail, reflectorized crossbucks, posts and other auxiliary structures.
    - c. Furnish and construct track through at-grade crossings as shown on the plans, including all items identified on the plans, excavation, specific crossing surface, welding rails, signage and posts, drainage structures, etc.
    - d. The Owner shall furnish Engineering services for initial track alignment and grade staking of trackbed.

## 1.02 CONSTRUCTION SPECIFICATIONS FOR INDUSTRIAL TRACK

### A. General

1. Track construction shall include unloading, distributing, and placing of rail, ballast, ties, tie plates, all fittings and fastenings; the laying, bolting, gauging, and spiking of rails; the placing of derails, frogs, switches, guard rails, and switch stands; and the lining, surfacing, and finishing of tracks on previously prepared subgrade and sub-ballast (if required).

### B. Track Construction

1. All track construction shall be governed by these specifications and other drawings incorporated as a part of the project specifications. The track construction shall be carried out with the necessary supervision and labor to prosecute the Work properly and in such numbers as may be required by the Engineer. Where conflict exists between the AREMA Manual, CN Specifications, WisDOT Standard Specifications for Jointed Railroad Track Construction and Maintenance (March 2012 Edition), State of Wisconsin Standard Specifications for Highway and Structure Construction (2013 Edition), and these specifications, the most stringent specifications will govern.

### C. Construction Specifications

1. Any items not covered specifically herein shall be in accordance with the AREMA Manual, and recommended practices subject to the approval of the Engineer or his authorized representative.

## PART 2 PRODUCTS

### 2.01 TRACK MATERIALS

#### A. Track materials shall be as defined in the Standard Specifications and further detailed as follows:

1. Rail shall be minimum 115 lb. New or No. 1 relay rail as required. Rail quality must meet or exceed WisDOT requirements.
2. Rail shall be minimum length of 39'. Rail through at-grade crossings, and within 25' of the edge of crossing, shall be welded.
3. Joint bars for each rail joint, insulated joint, and compromise joint must be of proper design and dimensions for the rail on which it is to be applied.

Contractor to provide compromise joint bars or compromise welds matching CN rail section and Specifications, at 13.5 foot clearance point or location designated by CN representative.

4. Track Bolts, nuts, and lock washers shall be new of correct size to fit rail and joint bar properly.
5. Track Spikes shall be new 5/8" X 6", or 5/8" X 6 1/4" installed per CN Specifications standards for spiking pattern.
6. Tie plates, new or secondhand, shall be double shouldered plates no smaller than 2 times the base of the rail, as required. Track to be fully plated. The use of single shoulder tie plates is prohibited.
7. Cross ties shall be new, 7" X 9" (not to exceed plus or minus 1/2" variance) X 8'6" (not to exceed plus or minus 2" variance.)
  - a. Timber Cross ties shall be installed at a rate of 24 ties per 39 ft. rail section (20" on center.) Creosoted Oak or Douglas Fir timbers shall be required for new construction. Only new creosoted Oak or Douglas fir switch ties to be used to accommodate turnout pattern.
  - b. Ties shall have anti-splitting devices applied selectively. The maximum allowable split shall be 8" long by 1/2" wide providing anti-splitting devices have been applied. In addition, shake cannot appear on more than one face and the following is allowed as long as the tie and spike holding capacity is not impaired; fire sear, sound knots not exceeding 1/3 the tie width, splinter pull, holes (grub or other) 1 1/2" diameter and/or 5" deep.
  - c. Guard timber ties in crushed aggregate crossing areas shall be new 7" X 9" X 9' Dapped type. Cross tie spacing in crossing areas shall be 18" on center.
  - d. Cross ties in crossing areas (concrete or crushed aggregate) shall be new, 7" X 9" (not to exceed plus or minus 1/2" variance) X 10' (not to exceed plus or minus 2" variance). Cross tie spacing in crossing areas shall be 18" on center.
  - e. The Owner reserves the right to conduct independent inspections on the ties; to perform borings to determine depth of treatment.
8. Rail anchors must be new and shall be installed as per WisDOT Specifications. All switch ties will be completely box anchored. For crossties that use elastic fasteners, rail anchors are not required; except as required near turnouts or crossings.

9. Ballast furnished shall be of an approved material in accordance with current railroad specifications. Under heavy traffic, crushed rock ballast, main line quality, AREMA Manual standard 4A gradation must be utilized.
  - a. The allowable wear based on the Los Angeles Abrasion Test, not greater than 35%, per ASTM C-535.
  - b. Minimum ballast depth shall be 6" under timber cross tie. The full ballast section extends 12" beyond ends of tie and thence to subgrade on not less than 2:1 slope.
  - c. Minimum ballast depth in concrete and crushed aggregate crossing areas shall be 10" under timber cross tie.
  - d. Ballast shall be quarried rock, crushed to proper gradation, with fully fractured faces.
  - e. Industry's Contractor shall provide certification that the ballast meet CN Specifications.

## 2.02 TURNOUT MATERIALS

- A. Turnout components for a #10 turnout shall generally follow the AREMA Manual or CN Specifications as it applies, except as detailed in paragraph (c) below for the frog, and guard rail details.
- B. The rail through the turnouts shall be new.
- C. All turnout components shall be new for similar rail section.
  1. The switch points shall be new 16'6" Samson switch points with adjustable braces. Stock Rails shall be chamfered to match Samson switch points.
  2. Switch stand shall be new "Backsaver" type switch stand, target and post. The target must be approved by the Operating railroad. Switch stand shall be adjusted, lubricated and operate smoothly.
  3. The frog for 115#, #10 turnout shall be new railbound manganese with a minimum length of 13'6" per AREMA Manual, or minimum 9'4" solid self-guarded manganese per AREMA Manual. Operating railroad must approve the type of frog permitted.

4. Guard rails for #10 turnouts shall be new or reconditioned secondhand, either 8'-4 1/2" one piece, or 9'-5" Tee rail design, per AREMA Manual.
5. The switch ties shall be new 7" X 9", and shall conform to AREMA Manual. Switch tie lengths and quantity for a #10 turnout shall meet AREMA Manual standards.
6. Standard graphite for the switch point slide plates shall be used as lubricant.
7. Head rods shall have four holes for new transit clips. Turnouts shall include new adjustable slide plates, new adjustable braces and new machined turnout plating.

## 2.03 SPECIALTY ITEMS

- A. The derail shall be a new or reconditioned switch point type and shall be constructed and installed per CN Specifications as outlined in detail drawing TS-2210. The split switch point derail shall be compatible with the rail provided and shall include a two tie, high switch stand with target, appropriate number of switch ties and derail sign, and shall comply with current CN Specifications.

## PART 3 EXECUTION

### 3.01 TRACK CONSTRUCTION

- A. The Work consists of track laying including placing cross ties, rail, tie plates, joint bars, compromise bars, track bolts, nuts, washers, track spikes, anchors, ballast, surfacing, and dressing. Work is to be accomplished according to guidelines found in AREMA Manual.
  1. Ties shall be uniformly spaced center to center of tie. Ties shall be laid at right angles to the rail and at least one will be located at the joint location as required in the FRA track standards for the class of track it is intended for.
  2. The rail will be laid with staggered joints, allowing for expansion per the table shown below. The rail joint bar contact surface shall be lubricated with Texaco 904, or equivalent, applied at the rate of one pound per 24" joint bar at the time of installation. Lubricant shall be applied to the rail. All joint bars shall be fully bolted, with new bolts and washers.
    - a. When rail is laid, fiber or wood shims shall be used to provide for the proper gap openings between the rails. The thickness of the in accordance with the tables shown below for appropriate rail lengths:

Table of Expansion for Rail Laying

<u>Temperature of Rail - Fahrenheit</u>	<u>Thickness of Shims 33'0" Rails</u>
below - 10	5/16"
-10 to 14	1/4"
15 to 34	3/16"
35 to 59	1/8"
60 to 85	1/16"
over 85	1/16" every other joint

<u>Temperature of Rail - Fahrenheit</u>	<u>Thickness of Shims 39'0" Rails</u>
below 6	5/16"
6 to 25	1/4"
26 to 45	3/16"
46 to 65	1/8"
66 to 85	1/16"
over 85	1/16" every other joint

- b. The temperature of the rail shall be determined by a thermometer laid on the rail web on the side away from the sun.
3. The rail laid through at-grade crossings shall have staggered joints. Prior to welding, the bolt holes and any signal bond materials shall be removed by a saw cut. The rail end shall then be cleaned. The rail end shall be welded by the "thermite" or "aluminothermic" welding process. Each weld shall be tested using an ultrasonic device by a qualified independent consultant approved by the Engineer and WisDOT. The written results provided to the Engineer and WisDOT within 5 days of welding. No rail joints shall be in the crossing, nor placed closer than 25 feet to the edge of the crossing.
4. The gauging shall be done at the time rail is laid and the gage shall be 4'-8 1/2" with a tolerance of (+/- 1/8") between points measured 5/8" below the top of the rail on the gauge side.
5. The track will require box anchors every other tie. In special cases, different instructions will apply. One box anchor will consist of four anchors bracketing a tie.



6. The ballast section shall be as detailed on the plans. Ballast may be distributed either from off track or on-track equipment. Care shall be taken when distributing ballast from equipment to prevent ruts that could create water pockets which would adversely affect the track drainage.
7. The preliminary aligning and surfacing shall follow the unloading of ballast as close as possible. After track has been aligned, it shall be brought to grade and surfaced. The Tamper shall be a 16 – tool tamping machine capable as lifting, lining and surfacing simultaneously. The ballast shall be thoroughly tamped under each tie with a pneumatic tamping machine from each end on both sides of ties within the limits of a street crossing and all switch ties shall be tamped for their entire length.
8. Final Surfacing and Alignment
  - a. After preliminary surfacing has been completed, all sections of track found not holding proper surface shall be re-tamped to the proper elevation. Cross level shall be continually checked and maintained at zero throughout all surfacing operations.
9. The track and turnouts shall be dressed with a ballast regulator with broom attachment. The track shall be dressed so that the ballast section conforms with the typical section shown on the plans. Adequate walkways shall be provided around the headblocks of turnouts.
  - a. All down, or down and cornered ties, shall be nipped and tamped with the same tamper mentioned above.
10. Care shall be taken to keep the wrinkles of engineering fabric to a minimum.
  - a. Engineering fabric damaged by equipment or other causes shall be replaced or repaired following installation by placing a patch over the damaged area (the patch shall overlap a minimum of 3' on undamaged material).
  - b. The initial 3" of track raise shall be made without using the tamping machine's tamping tools so as to prevent damage to engineering fabric.

### 3.02 TURNOUT CONSTRUCTION

- A. The work covered in this section is generally described in the AREMA Manual, CN Specifications, and WisDOT Specifications.
- B. The anchor pattern on turnouts shall be every switch tie box anchored.
- C. Graphite shall be applied to the slide plates of the switch points. Slide plates shall be adjusted and lubricated and operate smoothly.
- D. Turnout frogs shall not be painted.

### 3.03 CROSSING CONSTRUCTION

- A. Construct the crossing (when required) to conform to Construction Drawings.

### 3.04 IN-BUILDING CONSTRUCTION

- A. Construction of track within a building (when required) to conform to Construction Drawings.

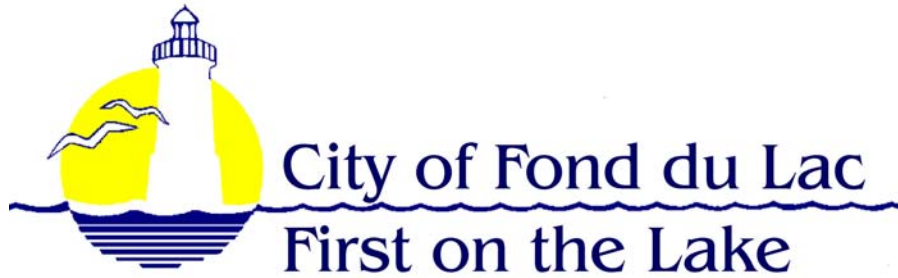
\*\*\*END OF SECTION\*\*\*

## **ATTACHMENTS**

**EXHIBIT – A**

**CITY OF FOND DU LAC  
BIDDER'S PROOF OF RESPONSIBILITY**

*Note: Eight pages total, including cover.*



## **CITY OF FOND DU LAC**

### **BIDDER'S PROOF OF RESPONSIBILITY**

The Bidder's Proof of Responsibility shall be filed with the Director of Public Works not later than five (5) days prior to opening of bids for projects which the bidder wishes to qualify.

This Bidder's Proof of Responsibility shall be valid for a period of one (1) calendar year and does not need to be completed for each bidding project.

All bidders on City of Fond du Lac contracts shall provide proof of responsibility in accordance with Section 66.0901(2) Wisconsin State Statutes.

Return Questionnaire To:

City of Fond du Lac  
Director of Public Works  
P.O. Box 150  
Fond du Lac, WI 54936-0150

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**Note:** The contents of this questionnaire shall be confidential for the exclusive use of the contracting agency and shall not be made public except by written permission of the prospective bidder.

## STATEMENT OF BIDDERS QUALIFICATIONS

There is submitted herewith for your consideration, pursuant to Section 66.0901(2) Wisconsin Statutes, a statement of qualifications of the undersigned to furnish the necessary labor, materials, and skills required to enter upon and complete contracts to be let by the City of Fond du Lac.

If the Director of Public Works is not satisfied with the sufficiency of the answers to this questionnaire and financial statement, he may require additional information, reject the bid or disregard the same. (Sec. 66.29(4), Wis Stats.)

## IDENTIFICATION

- A. Official Firm Name \_\_\_\_\_
- B. Address \_\_\_\_\_  
(STREET) (PO BOX)  
\_\_\_\_\_  
(CITY) (STATE) (ZIP CODE)
- C. Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_
- D. Direct any questions regarding information provided on this form to:  
\_\_\_\_\_  
NAME TELEPHONE NUMBER
- E. Number of years in business under present firm name \_\_\_\_\_
- F. Type of organization (check one): Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Individual \_\_\_\_\_
- G. Principal Individuals:
- |                                  |                                     |
|----------------------------------|-------------------------------------|
| (If a Corporation, answer below) | (If a Co-Partnership, answer below) |
| President _____                  | Name of Partner _____               |
| Vice Pres. _____                 | Name of Partner _____               |
| Secretary _____                  | (If a Sole Trader, answer below)    |
| Treasurer _____                  | Name of Sole Trader _____           |
- H. If a Corporation, answer below:
- (1) When incorporated \_\_\_\_\_, (2) In what State \_\_\_\_\_

I. Class of work in which firm is seeking qualifications (check below):

**STREET, UTILITY & SITE CONSTRUCTION**

- ☐ Bituminous street construction  
(Prime contractor)
- ☐ Bituminous paving
- ☐ Bridge construction and repairs
  - ☐ \$0 - \$250,000
  - ☐ \$250,000 - \$500,000
  - ☐ Over \$500,000
- ☐ Bridge painting
- ☐ Concrete street construction  
(Prime contractor)
- ☐ Curb & gutter repair
- ☐ Concrete paving
- ☐ Concrete pavement repairs
- ☐ Landscaping
- ☐ Pump stations & lift stations
- ☐ Reinforced concrete construction  
(such as foundations, storm drainage  
structures, retaining walls)
- ☐ Roadway grading & graveling
- ☐ Sanitary and storm sewer construction
  - ☐ Lateral construction only
- ☐ Sidewalk construction
- ☐ Site excavation
  - ☐ Grading and graveling
- ☐ Street lighting
- ☐ Water main construction
  - ☐ Lateral construction only
- ☐ Water Towers/Reservoirs
- ☐ Wells

**BUILDING CONSTRUCTION**

- ☐ General Building Construction  
(New construction, renovations, or  
Remodeling)
  - ☐ \$0 - \$100,000
  - ☐ \$100,000 - \$250,000
  - ☐ Over \$250,000

**Specific Categories of Building Construction**

- ☐ Asbestos Abatement
- ☐ Building Demolition
- ☐ Fire Protection
- ☐ Painting
- ☐ Roofing

**OTHER MISCELLANEOUS CATEGORIES**

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- J. EXPERIENCE: What is the construction experience of the principal individuals, including superintendents and/or foremen, of your present organization?

Individual's Name	Present Position of Officer in your firm	Years of Construction Experience	Magnitude & Type of Work	In What Capacity

- K. CONSTRUCTION EXPERIENCE: List below previous contracts completed pertinent to the type of work for which prequalification is desired.

YEAR/LOCATION	TYPE OF WORK	COST OF WORK

- L. WORK ON HAND: List below present contracts on hand.

DATE AWARDED	TYPE OF WORK	PERCENT COMPLETED	ANTICIPATED COMPLETION DATE	COST OF WORK



M. Are you familiar the Department of Natural Resources requirements and specifications relating to erosion control? \_\_\_\_\_

If so, list any training courses or workshops your firm has attended. \_\_\_\_\_

N. EQUIPMENT: List below major pieces of equipment owned and available when needed for proposed work. **ALL COLUMNS MUST BE COMPLETED. ATTACH ADDITIONAL SHEETS IF NECESSARY. MUST CONTAIN SAME INFORMATION LISTED ON THIS PAGE.**

[illegible]

O. CONTRACTUAL RESPONSIBILITY: Has firm ever failed in the past ten years to complete on time work awarded to it? \_\_\_\_\_ If so, state:  
Date \_\_\_\_\_ Owner \_\_\_\_\_

Owner' Mailing Address \_\_\_\_\_

Full particulars for each instance: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

P. Has firm asked to be relieved from a bid submitted by it to a public awarding authority during the past ten years? \_\_\_\_\_ If so, state:  
Date \_\_\_\_\_ Claimant \_\_\_\_\_

Owner' Mailing Address \_\_\_\_\_

Full particulars for each instance: \_\_\_\_\_

\_\_\_\_\_

Q. Financial Statement

Condition at close of business on \_\_\_\_\_ 20\_\_\_\_

A. Cash \$ \_\_\_\_\_

B. Accounts Receivable \$ \_\_\_\_\_

C. Real Estate Equity \$ \_\_\_\_\_

D. Materials in Stock \$ \_\_\_\_\_

E. Equipment, Book Value \$ \_\_\_\_\_

F. Furniture and Fixture \$ \_\_\_\_\_

G. Other Assets \$ \_\_\_\_\_

Total Assets \$ \_\_\_\_\_

Liabilities

H. Accounts, Notes and Interest Payable \$ \_\_\_\_\_

I. Other Liabilities \$ \_\_\_\_\_

Net Worth \$\_\_\_\_\_

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\_\_\_\_\_  
Director of Public Works

Date \_\_\_\_\_

**EXHIBIT – B**  
**ANNUAL PREVAILING WAGE RATE SURVEY DATA**  
**FOND DU LAC COUNTY**

*Note: Thirteen pages total, including cover.*

**Department of Workforce Development  
Final Determination  
Annual Prevailing Wage Rate Survey Data  
FOND DU LAC COUNTY  
Compiled by the State of Wisconsin  
For All Public Works Projects, Except State Highways  
Effective January 1st, 2013  
02/08/2013 08:03:48 AM**

Total Rows Found = 236

**DO NOT USE THE DATA INDICATED BELOW FOR BIDDING OR FOR WORK PERFORMED ON A SPECIFIC PUBLIC WORKS PROJECT. WAGE RATE CORRECTIONS ARE INDICATED BY THE CHANGE DATE. OFFICIAL WAGE RATES TO BE USED ARE CONTAINED IN THE PROJECT SPECIFICATIONS.**

**BUILDING OR HEAVY CONSTRUCTION**

Includes sheltered enclosures with walk-in access for the purpose of housing persons, employees, machinery, equipment or supplies and non-sheltered work such as canals, dams, dikes, reservoirs, storage tanks, etc. A sheltered enclosure need not be "habitable" in order to be considered a building. The installation of machinery and/or equipment, both above and below grade level, does not change a project's character as a building. On-site grading, utility work and landscaping are included within this definition. Residential buildings of four (4) stories or less, agricultural buildings, parking lots and driveways are NOT included within this definition.

					Change
SKILLED TRADES					Date
101	Acoustic Ceiling Tile Installer	\$32.93	\$19.81	\$52.74	
	Future Note: Add \$.75/hr on 6/3/2013. Add \$1.25/hr on 6/2/2014.				
102	Boilermaker	\$31.09	\$25.60	\$56.69	
	Future Note: Add \$1.90/hr on 1/01/13				
103	Bricklayer, Blocklayer or Stonemason	\$30.76	\$16.24	\$47.00	
104	Cabinet Installer	\$30.16	\$15.31	\$45.47	
105	Carpenter	\$30.16	\$15.31	\$45.47	
106	Carpet Layer or Soft Floor Coverer	\$32.93	\$21.85	\$54.78	
107	Cement Finisher	\$30.76	\$12.82	\$43.58	
108	Drywall Taper or Finisher	\$29.62	\$17.04	\$46.66	
109	Electrician	\$28.97	\$19.59	\$48.56	
	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
110	Elevator Constructor	\$42.86	\$23.15	\$66.01	
111	Fence Erector	\$22.50	\$3.65	\$26.15	
112	Fire Sprinkler Fitter	\$35.64	\$17.00	\$52.64	
113	Glazier	\$28.09	\$12.12	\$40.21	
114	Heat or Frost Insulator	\$33.93	\$18.88	\$52.81	
115	Insulator (Batt or Blown)	\$27.47	\$19.16	\$46.63	
116	Ironworker	\$28.03	\$21.97	\$50.00	
117	Lather	\$30.16	\$15.31	\$45.47	
118	Line Constructor (Electrical)	\$37.05	\$16.94	\$53.99	
119	Marble Finisher	\$20.00	\$0.00	\$20.00	
120	Marble Mason	\$30.76	\$16.24	\$47.00	
121	Metal Building Erector	\$23.05	\$1.60	\$24.65	

122	Millwright	\$31.76	\$15.36	\$47.12	
123	Overhead Door Installer	\$13.50	\$0.00	\$13.50	
124	Painter	\$18.00	\$6.01	\$24.01	
125	Pavement Marking Operator	\$30.00	\$0.00	\$30.00	
126	Piledriver	\$30.66	\$15.31	\$45.97	
127	Pipeline Fuser or Welder (Gas or Utility)	\$31.18	\$19.29	\$50.47	
129	Plasterer	\$30.76	\$16.42	\$47.18	
130	Plumber	\$32.59	\$16.10	\$48.69	01/09/2013
	Future Note: Add \$.85/hr on 6/03/2013				
132	Refrigeration Mechanic	\$37.76	\$19.99	\$57.75	01/09/2013
133	Roofer or Waterproofer	\$21.60	\$9.67	\$31.27	
134	Sheet Metal Worker	\$29.51	\$20.37	\$49.88	
135	Steamfitter	\$32.59	\$16.10	\$48.69	01/09/2013
	Future Note: Add \$.85/hr on 6/3/2013.				
137	Teledata Technician or Installer	\$24.65	\$14.64	\$39.29	
138	Temperature Control Installer	\$32.59	\$16.10	\$48.69	01/09/2013
	Future Note: Add \$.85/hr on 6/03/2013.				
139	Terrazzo Finisher	\$26.57	\$16.50	\$43.07	
	Future Note: Add \$ .80 on 6/1/2013				
140	Terrazzo Mechanic	\$29.51	\$17.63	\$47.14	
141	Tile Finisher	\$23.77	\$9.59	\$33.36	
142	Tile Setter	\$30.76	\$16.42	\$47.18	
143	Tuckpointer, Caulker or Cleaner	\$30.77	\$16.92	\$47.69	
	Future Note: Add \$ .80 on 6/1/2013				
	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
144	Underwater Diver (Except on Great Lakes)	\$34.16	\$15.31	\$49.47	
146	Well Driller or Pump Installer	\$25.32	\$15.45	\$40.77	
	Future Note: Add \$.20/hr on 06/01/2013.				
147	Siding Installer	\$37.20	\$17.01	\$54.21	
150	Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	\$28.24	\$15.10	\$43.34	
151	Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	\$29.64	\$17.79	\$47.43	
152	Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$25.94	\$13.57	\$39.51	
153	Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$24.08	\$12.96	\$37.04	
154	Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	\$24.00	\$11.57	\$35.57	
					<b>Change</b>
<b>TRUCK DRIVERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
201	Single Axle or Two Axle	\$31.89	\$17.98	\$49.87	
203	Three or More Axle	\$22.50	\$16.66	\$39.16	
204	Articulated, Euclid, Dumptor, Off Road Material Hauler	\$15.00	\$19.59	\$34.59	
205	Pavement Marking Vehicle	\$20.85	\$11.02	\$31.87	
207	Truck Mechanic	\$22.50	\$16.66	\$39.16	
					<b>Change</b>

LABORERS		HBR	FB's	Total	Date
301	General Laborer	\$23.46	\$13.88	\$37.34	
	Future Note: Add \$.75/hr. on 06/03/2013				
	Premium Note: Add \$1.00/hr for certified welder and pipelayer; Add \$.25/hr for mason tender				
302	Asbestos Abatement Worker	\$34.78	\$0.00	\$34.78	
303	Landscaper	\$21.50	\$0.59	\$22.09	
310	Gas or Utility Pipeline Laborer (Other Than Sewer and Water)	\$19.84	\$12.65	\$32.49	
311	Fiber Optic Laborer (Outside, Other Than Concrete Encased)	\$18.31	\$12.67	\$30.98	
	Premium Note: DOT PREMIUMS: Pay two times the hourly basic rate on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
314	Railroad Track Laborer	\$23.41	\$15.14	\$38.55	
315	Final Construction Clean-Up Worker	\$23.41	\$13.43	\$36.84	
					Change
HEAVY EQUIPMENT OPERATORS: SITE PREPARATION, UTILITY, OR LANDSCAPING WORK ONLY		HBR	FB's	Total	Date
501	Air Track, Rotary or Percussion Drilling Machine &/or Hammers, Blaster; Asphalt Milling Machine; Bor...	\$32.39	\$18.46	\$50.85	
	Future Note: Add \$1/hr on 6/2/2013.				
502	Backfiller; Broom or Sweeper; Bulldozer or Endloader (Under 40 hp); Environmental Burner; Forestry E...	\$32.39	\$18.46	\$50.85	
	Future Note: Add \$1/hr on 6/2/2013.				
503	Air Compressor (&/or 400 CFM or Over); Augers (Vertical & Horizontal); Compactor (Self-Propelled 84 ...	\$33.82	\$17.60	\$51.42	
	Future Note: Add \$0.75/hour 6/3/2013; Add \$1.00/hour 6/2/2014; Add \$1.50/hour 6/1/2015; Add \$1.60/hour 5/30/2016.				
					Change
HEAVY EQUIPMENT OPERATORS: EXCLUDING SITE PREPARATION, UTILITY, PAVING, OR LANDSCAPING WORK		HBR	FB's	Total	Date
508	Boring Machine (Directional); Crane, Tower Crane, Pedestal Tower or Derrick, With or Without Attachm...	\$35.12	\$18.46	\$53.58	
	Future Note: Add \$1/hr on 6/2/2013.				
	Premium Note: Add \$.50/hr for >200 Ton / Add \$1/hr at 300 Ton / Add \$1.50 at 400 Ton / Add \$2/hr at 500 Ton & Over.				
509	Backhoe (Track Type) Having a Mfgr's Rated Capacity of 130,000 Lbs. or Over; Boring Machine (Horizon...	\$34.12	\$18.46	\$52.58	
	Future Note: Add \$1/hr on 6/2/2013.				
	Premium Note: Add \$.25/hr for all >45 Ton lifting capacity cranes.				
510	Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of Under 130,000 Lbs., Backhoe (Mini, 15,000 Lb...	\$32.42	\$9.43	\$41.85	
511	Air, Track, Rotary or Percussion Drilling Machine &/or Hammers, Blaster; Bulldozer or Endloader (Ove...	\$32.39	\$18.46	\$50.85	
	Future Note: Add \$1/hr on 6/2/2013.				
512	Backfiller; Broom or Sweeper; Bulldozer or Endloader (Under 40 hp); Compactor (Self-Propelled 84 Ft ...	\$35.59	\$17.76	\$53.35	

513	Air Compressor (&/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Augers (Vertical &...	\$29.69	\$18.46	\$48.15	
	Future Note: Add \$1/hr on 6/2/2013.				
514	Gas or Utility Pipeline, Except Sewer & Water (Primary Equipment).	\$34.89	\$20.59	\$55.48	
	Future Note: Add \$2/hr on 1/1/2013.				
515	Gas or Utility Pipeline, Except Sewer & Water (Secondary Equipment).	\$31.32	\$17.95	\$49.27	
	Future Note: Add \$1.60/hr on 06/01/2013; Add \$1.60/hr on 06/01/2014; Add \$1.65/hr on 06/01/2015.				
516	Fiber Optic Cable Equipment	\$26.69	\$16.65	\$43.34	
	Future Note: Add \$1.75/hr on 02/01/2013; Add \$1.75/hr on 02/01/2014				
DO NOT USE THE DATA INDICATED BELOW FOR BIDDING OR FOR WORK PERFORMED ON A SPECIFIC PUBLIC WORKS PROJECT. WAGE RATE CORRECTIONS ARE INDICATED BY THE CHANGE DATE. OFFICAL WAGE RATES TO BE USED ARE CONTAINED IN THE PROJECT SPECIFICATIONS.					
SEWER, WATER OR TUNNEL CONSTRUCTION					
Includes those projects that primarily involve public sewer or water distribution, transmission or collection systems and related tunnel work (excluding buildings).					
					Change
SKILLED TRADES		HBR	FB's	Total	Date
103	Bricklayer, Blocklayer or Stonemason	\$35.80	\$16.87	\$52.67	
	Future Note: Add \$1.45/hr on 6/01/2013				
	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
105	Carpenter	\$32.93	\$19.81	\$52.74	
	Future Note: Add \$.75/hr on 6/3/2013. Add \$1.25/hr on 6/2/2014.				
	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
107	Cement Finisher	\$32.09	\$16.13	\$48.22	
	Future Note: Add \$1.87 on 6/1/13; Add \$1.87 on 6/1/14; Add \$1.87 on 6/1/15; Add \$1.75 on 6/1/16.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.40/hr when the Wisconsin Department of Transportation or responsible governing agency requires that work be performed at night under artificial illumination with traffic control and the work is completed after sunset and before sunrise.				
109	Electrician	\$32.20	\$21.71	\$53.91	
	Future Note: Add \$1.60/hr on 6/1/2013.				
	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
111	Fence Erector	\$22.50	\$3.65	\$26.15	
116	Ironworker	\$30.90	\$19.11	\$50.01	
118	Line Constructor (Electrical)	\$37.05	\$16.94	\$53.99	
125	Pavement Marking Operator	\$28.10	\$15.00	\$43.10	
126	Piledriver	\$30.66	\$15.31	\$45.97	
130	Plumber	\$36.97	\$17.66	\$54.63	
135	Steamfitter	\$32.01	\$15.93	\$47.94	01/09/2013



137	Teledata Technician or Installer	\$24.65	\$14.64	\$39.29	
143	Tuckpointer, Caulker or Cleaner	\$30.76	\$16.42	\$47.18	
144	Underwater Diver (Except on Great Lakes)	\$37.45	\$19.45	\$56.90	
146	Well Driller or Pump Installer	\$21.00	\$2.23	\$23.23	
150	Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	\$28.24	\$15.10	\$43.34	
151	Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	\$29.64	\$17.79	\$47.43	
152	Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$25.94	\$13.57	\$39.51	
153	Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$24.08	\$12.96	\$37.04	
154	Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	\$21.75	\$11.90	\$33.65	
					<b>Change</b>
<b>TRUCK DRIVERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
201	Single Axle or Two Axle	\$25.87	\$13.00	\$38.87	
203	Three or More Axle	\$18.00	\$7.01	\$25.01	
204	Articulated, Euclid, Dumptor, Off Road Material Hauler	\$31.89	\$17.98	\$49.87	
205	Pavement Marking Vehicle	\$20.85	\$11.02	\$31.87	
207	Truck Mechanic	\$22.50	\$16.19	\$38.69	
					<b>Change</b>
<b>LABORERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
301	General Laborer	\$25.28	\$13.89	\$39.17	
	Future Note: Add \$.80/hr. on 06/03/2013				
	Premium Note: Add \$.20 for blaster, bracer, manhole builder, caulker, bottomman and power tool; Add \$.55 for pipelayer; Add \$1.00 for 0-15 lbs. compressed air; Add \$2.00 for 15-30 lbs. compressed air; Add \$3.00 for over 30 lbs. compressed air.				
303	Landscaper	\$26.92	\$12.51	\$39.43	
304	Flagperson or Traffic Control Person	\$17.33	\$15.44	\$32.77	
311	Fiber Optic Laborer (Outside, Other Than Concrete Encased)	\$17.81	\$12.22	\$30.03	
314	Railroad Track Laborer	\$23.41	\$15.14	\$38.55	
					<b>Change</b>
<b>HEAVY EQUIPMENT OPERATORS: SEWER, WATER OR TUNNEL CONSTRUCTION</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
521	Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Crane, To...	\$35.12	\$18.46	\$53.58	
	Future Note: Add \$1/hr on 6/2/2013.				
	Premium Note: Add \$.50/hr for >200 Ton / Add \$1/hr at 300 Ton / Add \$1.50 at 400 Ton / Add \$2/hr at 500 Ton & Over.				
522	Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of Under 130,000 Lbs., Backhoe (Mini, 15,000 Lb...	\$35.36	\$19.15	\$54.51	
	Premium Note: Add \$.25/hr for operating tower crane.				
523	Air Track, Rotary or Percussion Drilling Machine &/or Hammers, Blaster; Boring Machine (Horizontal o...	\$34.41	\$19.15	\$53.56	
	Premium Note: Add \$.25/hr for operating tower crane.				
524	Backfiller; Broom or Sweeper; Bulldozer or Endloader (Under 40 hp); Compactor (Self-Propelled 85 Ft ...	\$31.89	\$18.11	\$50.00	

525	Air Compressor (&/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Augers (Vertical &...	\$29.19	\$20.14	\$49.33	
526	Boiler (Temporary Heat); Forklift; Greaser; Oiler.	\$30.44	\$19.10	\$49.54	
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<b>AIRPORT PAVEMENT OR STATE HIGHWAY CONSTRUCTION</b>					
Includes all airport projects (excluding buildings) and all projects awarded by the Wisconsin Department of Transportation (excluding buildings).					
					<b>Change</b>
<b>SKILLED TRADES</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
103	Bricklayer, Blocklayer or Stonemason	\$35.58	\$19.20	\$54.78	
105	Carpenter	\$31.38	\$5.25	\$36.63	
107	Cement Finisher	\$31.52	\$16.60	\$48.12	
	Future Note: Add \$1.87 on 6/1/13; Add \$1.87 on 6/1/14; Add \$1.87 on 6/1/15; Add \$1.75 on 6/1/16.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.40/hr when the Wisconsin Department of Transportation or responsible governing agency requires that work be performed at night under artificial illumination with traffic control and the work is completed after sunset and before sunrise.				
109	Electrician	\$37.25	\$15.50	\$52.75	
111	Fence Erector	\$28.00	\$4.50	\$32.50	
116	Ironworker	\$30.90	\$19.25	\$50.15	
118	Line Constructor (Electrical)	\$31.29	\$15.34	\$46.63	
124	Painter	\$28.00	\$11.15	\$39.15	
125	Pavement Marking Operator	\$26.54	\$16.83	\$43.37	
126	Piledriver	\$30.66	\$15.31	\$45.97	
133	Roofer or Waterproofer	\$21.00	\$9.67	\$30.67	
137	Teledata Technician or Installer	\$24.65	\$14.64	\$39.29	
143	Tuckpointer, Caulker or Cleaner	\$30.76	\$16.42	\$47.18	
144	Underwater Diver (Except on Great Lakes)	\$37.45	\$19.45	\$56.90	
150	Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	\$29.64	\$17.06	\$46.70	
151	Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	\$35.50	\$15.09	\$50.59	
152	Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$25.94	\$13.57	\$39.51	
153	Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$24.08	\$12.96	\$37.04	
154	Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	\$21.75	\$11.90	\$33.65	
					<b>Change</b>
<b>TRUCK DRIVERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
201	Single Axle or Two Axle	\$33.22	\$18.90	\$52.12	
203	Three or More Axle	\$23.31	\$17.13	\$40.44	
	Future Note: Add \$1.85/hr on 6/1/2013.				

	Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.				
204	<b>Articulated, Euclid, Dumptor, Off Road Material Hauler</b>	\$27.77	\$19.90	\$47.67	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
205	<b>Pavement Marking Vehicle</b>	\$23.99	\$14.71	\$38.70	
206	<b>Shadow or Pilot Vehicle</b>	\$33.22	\$18.90	\$52.12	
207	<b>Truck Mechanic</b>	\$22.50	\$16.19	\$38.69	
					<b>Change</b>
<b>LABORERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
301	<b>General Laborer</b>	\$28.07	\$13.90	\$41.97	
	Future Note: Add \$1.70/hr on 6/1/2013; Add \$1.60/hr on 6/1/2014.				
	Premium Note: Add \$.10/hr for topman, air tool operator, vibrator or tamper operator (mechanical hand operated), chain saw operator and demolition burning torch laborer; Add \$.15/hr for bituminous worker (raker and luteman), formsetter (curb, sidewalk and pavement) and strike off man; Add \$.20/hr for blaster and powderman; Add \$.25/hr for bottomman; Add \$.35/hr for line and grade specialist; Add \$.45/hr for pipelayer. DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).				
302	<b>Asbestos Abatement Worker</b>	\$34.78	\$0.00	\$34.78	
303	<b>Landscaper</b>	\$28.07	\$13.90	\$41.97	
	Future Note: Add \$1.70/hr on 6/1/13; Add \$1.60/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr for work on projects involving temporary traffic control setup, for lane and shoulder closures, when work under artificial illumination conditions is necessary as required by the project provisions (including prep time prior to and/or cleanup after such time period).				
304	<b>Flagperson or Traffic Control Person</b>	\$21.73	\$18.40	\$40.13	
	Future Note: Add \$1.70/hr on 6/1/2013; Add \$1.60/hr on 6/1/2014.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr when the Wisconsin Department of Transportation or responsible governing agency requires that work be performed at night under artificial illumination with traffic control and the work is completed after sunset and before sunrise.				
311	<b>Fiber Optic Laborer (Outside, Other Than Concrete Encased)</b>	\$17.81	\$12.22	\$30.03	
314	<b>Railroad Track Laborer</b>	\$23.41	\$15.14	\$38.55	
					<b>Change</b>
<b>HEAVY EQUIPMENT OPERATORS: AIRPORT, PAVEMENT, OR STATE HIGHWAY CONSTRUCTION</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
531	<b>Crane, Tower Crane, Pedestal Tower or Derrick, With Boom, Leads &amp;/or Jib Lengths Measuring 176 Ft or...</b>	\$35.22	\$19.90	\$55.12	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of				

	this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
532	<b>Backhoe (Track Type) Having a Mfrg.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Crane, To...</b>	\$34.72	\$19.90	\$54.62	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
533	<b>Air Track, Rotary or Percussion Drilling Machine &amp;/or Hammers, Blaster; Asphalt Heater, Planer &amp; Sca...</b>	\$34.22	\$19.90	\$54.12	01/09/2013
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
534	<b>Belting, Burlap, Texturing Machine; Broom or Sweeper; Compactor (Self-Propelled or Tractor Mounted, ...</b>	\$33.96	\$19.90	\$53.86	01/09/2013
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
535	<b>Air Compressor (&amp;/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Augers (Vertical &amp;...</b>	\$33.67	\$19.90	\$53.57	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
536	<b>Fiber Optic Cable Equipment.</b>	\$25.74	\$15.85	\$41.59	
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<b>LOCAL STREET OR MISCELLANEOUS PAVING CONSTRUCTION</b>					
Includes roads, streets, alleys, trails, bridges, paths, racetracks, parking lots and driveways (except residential or agricultural), public sidewalks or other similar projects (excluding projects awarded by the Wisconsin Department of Transportation).					
					<b>Change</b>
<b>SKILLED TRADES</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
103	<b>Bricklayer, Blocklayer or Stonemason</b>	\$33.00	\$15.00	\$48.00	
105	<b>Carpenter</b>	\$30.16	\$15.31	\$45.47	
107	<b>Cement Finisher</b>	\$31.48	\$15.55	\$47.03	
109	<b>Electrician</b>	\$32.55	\$19.26	\$51.81	
111	<b>Fence Erector</b>	\$22.50	\$3.65	\$26.15	

116	Ironworker	\$28.03	\$21.97	\$50.00	
118	Line Constructor (Electrical)	\$37.05	\$16.94	\$53.99	
124	Painter	\$18.00	\$6.01	\$24.01	
125	Pavement Marking Operator	\$28.10	\$15.00	\$43.10	
126	Piledriver	\$30.66	\$15.31	\$45.97	
133	Roofer or Waterproofer	\$21.00	\$9.67	\$30.67	
137	Teledata Technician or Installer	\$24.65	\$14.64	\$39.29	
143	Tuckpointer, Caulker or Cleaner	\$30.76	\$16.42	\$47.18	
144	Underwater Diver (Except on Great Lakes)	\$37.45	\$19.45	\$56.90	
150	Heavy Equipment Operator - ELECTRICAL LINE CONSTRUCTION ONLY	\$29.64	\$14.55	\$44.19	
151	Light Equipment Operator -ELECTRICAL LINE CONSTRUCTION ONLY	\$29.64	\$17.79	\$47.43	
152	Heavy Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$25.94	\$13.57	\$39.51	
153	Light Truck Driver - ELECTRICAL LINE CONSTRUCTION ONLY	\$24.08	\$12.96	\$37.04	
154	Groundman - ELECTRICAL LINE CONSTRUCTION ONLY	\$21.75	\$11.90	\$33.65	
					<b>Change</b>
<b>TRUCK DRIVERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
201	Single Axle or Two Axle	\$25.87	\$13.00	\$38.87	
203	Three or More Axle	\$23.31	\$17.13	\$40.44	
Future Note: Add \$1.85/hr on 6/1/2013.					
Premium Note: DOT PREMIUM: Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.					
204	Articulated, Euclid, Dumptor, Off Road Material Hauler	\$32.39	\$18.46	\$50.85	
Future Note: Add \$1/hr on 6/2/2013.					
205	Pavement Marking Vehicle	\$20.85	\$11.02	\$31.87	
206	Shadow or Pilot Vehicle	\$25.87	\$13.00	\$38.87	
207	Truck Mechanic	\$22.50	\$16.19	\$38.69	
					<b>Change</b>
<b>LABORERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
301	General Laborer	\$26.92	\$12.93	\$39.85	
303	Landscaper	\$26.92	\$11.88	\$38.80	
304	Flagperson or Traffic Control Person	\$17.33	\$15.44	\$32.77	
311	Fiber Optic Laborer (Outside, Other Than Concrete Encased)	\$17.81	\$12.22	\$30.03	
314	Railroad Track Laborer	\$23.41	\$15.14	\$38.55	
					<b>Change</b>
<b>HEAVY EQUIPMENT OPERATORS: CONCRETE PAVEMENT OR BRIDGE WORK ONLY</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
541	Crane, Tower Crane, Pedestal Tower or Derrick, With or Without Attachments, With a Lifting Capacity ...	\$35.22	\$19.90	\$55.12	
Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.					
Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-</a>					

	eeo/index.shtm.				
542	<b>Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Crane, To...</b>	\$34.72	\$19.90	\$54.62	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
543	<b>Air Track, Rotary or Percussion Drilling Machine &amp;/or Hammers, Blaster; Automatic Subgrader (Concret...</b>	\$34.22	\$19.90	\$54.12	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
544	<b>Backfiller; Belting, Burlap, Texturing Machine; Broom or Sweeper; Compactor (Self-Propelled or Tract...</b>	\$33.96	\$19.90	\$53.86	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
	Premium Note: DOT PREMIUMS: 1) Pay two times the hourly basic rate on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day. 2) Add \$1.25/hr night work premium. See DOT's website for details about the applicability of this night work premium at: <a href="http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm">http://roadwaystandards.dot.wi.gov/hcci/labor-wages-eeo/index.shtm</a> .				
545	<b>Air Compressor (&amp;/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Automatic Belt Con...</b>	\$33.32	\$17.60	\$50.92	
546	<b>Fiber Optic Cable Equipment.</b>	\$25.74	\$15.85	\$41.59	
					<b>Change</b>
<b>HEAVY EQUIPMENT OPERATORS: ASPHALT PAVEMENT OR OTHER WORK</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
551	<b>Crane, Tower Crane, Pedestal Tower or Derrick, With or Without Attachments, With a Lifting Capacity ...</b>	\$34.62	\$17.98	\$52.60	
552	<b>Backhoe (Track Type) Having a Mfgr.'s Rated Capacity of 130,000 Lbs. or Over; Caisson Rig; Crane, To...</b>	\$32.92	\$18.46	\$51.38	
	Future Note: Add \$1/hr on 6/2/2013.				
553	<b>Air, Track, Rotary or Percussion Drilling Machine &amp;/or Hammers, Blaster; Asphalt Heater, Planer &amp; Sc...</b>	\$32.67	\$18.74	\$51.41	
554	<b>Backfiller; Broom or Sweeper; Compactor (Self-Propelled or Tractor Mounted, Towed &amp; Light Equipment)...</b>	\$33.67	\$19.55	\$53.22	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
555	<b>Air Compressor (&amp;/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Augers (Vertical &amp;...</b>	\$33.67	\$19.55	\$53.22	
	Future Note: Add \$2/hr on 6/1/13; Add \$1.75/hr on 6/1/14.				
556	<b>Fiber Optic Cable Equipment.</b>	\$25.74	\$15.85	\$41.59	
<b>DO NOT USE THE DATA INDICATED BELOW FOR BIDDING OR FOR WORK PERFORMED ON A SPECIFIC PUBLIC WORKS PROJECT. WAGE RATE CORRECTIONS ARE INDICATED BY THE CHANGE DATE. OFFICAL WAGE RATES TO BE USED ARE CONTAINED IN THE PROJECT SPECIFICATIONS.</b>					
<b>RESIDENTIAL OR AGRICULTURAL CONSTRUCTION</b>					

Includes single family houses or apartment buildings of no more than four (4) stories in height and all buildings, structures or facilities that are primarily used for agricultural or farming purposes, excluding commercial buildings. For classification purposes, the exterior height of a residential building, in terms of stories, is the primary consideration. All incidental items such as site work, driveways, parking lots, private sidewalks, private septic systems or sewer and water laterals connected to a public system and swimming pools are included within this definition. Residential buildings of five (5) stories and above are NOT included within this definition.

					Change
SKILLED TRADES		HBR	FB's	Total	Date
101	Acoustic Ceiling Tile Installer	\$19.50	\$10.90	\$30.40	
102	Boilermaker	\$31.09	\$23.75	\$54.84	
103	Bricklayer, Blocklayer or Stonemason	\$35.58	\$5.14	\$40.72	
104	Cabinet Installer	\$9.50	\$0.00	\$9.50	
105	Carpenter	\$18.50	\$5.15	\$23.65	
106	Carpet Layer or Soft Floor Coverer	\$32.93	\$21.85	\$54.78	
107	Cement Finisher	\$25.00	\$3.26	\$28.26	
108	Drywall Taper or Finisher	\$20.00	\$1.78	\$21.78	
109	Electrician	\$22.50	\$11.05	\$33.55	
110	Elevator Constructor	\$42.86	\$23.15	\$66.01	
111	Fence Erector	\$14.00	\$3.69	\$17.69	
112	Fire Sprinkler Fitter	\$35.64	\$17.00	\$52.64	
113	Glazier	\$17.79	\$0.00	\$17.79	
114	Heat or Frost Insulator	\$35.00	\$0.00	\$35.00	
115	Insulator (Batt or Blown)	\$18.50	\$13.98	\$32.48	
116	Ironworker	\$30.90	\$18.94	\$49.84	
117	Lather	\$18.50	\$5.15	\$23.65	
119	Marble Finisher	\$16.50	\$2.38	\$18.88	
120	Marble Mason	\$35.58	\$5.14	\$40.72	
121	Metal Building Erector	\$17.50	\$0.52	\$18.02	
123	Overhead Door Installer	\$15.50	\$0.84	\$16.34	
124	Painter	\$17.00	\$5.00	\$22.00	
125	Pavement Marking Operator	\$28.10	\$15.00	\$43.10	
129	Plasterer	\$17.00	\$5.00	\$22.00	
130	Plumber	\$29.45	\$3.79	\$33.24	01/09/2013
132	Refrigeration Mechanic	\$24.75	\$8.00	\$32.75	01/09/2013
133	Roofer or Waterproofer	\$17.00	\$2.03	\$19.03	
134	Sheet Metal Worker	\$20.66	\$14.16	\$34.82	
135	Steamfitter	\$32.01	\$15.93	\$47.94	01/09/2013
137	Teledata Technician or Installer	\$18.85	\$5.00	\$23.85	
138	Temperature Control Installer	\$22.00	\$3.06	\$25.06	01/09/2013
139	Terrazzo Finisher	\$26.57	\$16.00	\$42.57	
140	Terrazzo Mechanic	\$30.01	\$17.13	\$47.14	
141	Tile Finisher	\$20.60	\$3.60	\$24.20	
142	Tile Setter	\$20.43	\$8.00	\$28.43	
143	Tuckpointer, Caulker or Cleaner	\$32.50	\$2.84	\$35.34	
146	Well Driller or Pump Installer	\$27.60	\$1.35	\$28.95	
147	Siding Installer	\$17.00	\$1.90	\$18.90	
					Change

<b>TRUCK DRIVERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
<b>201</b>	<b>Single Axle or Two Axle</b>	\$22.00	\$0.68	\$22.68	
<b>203</b>	<b>Three or More Axle</b>	\$22.00	\$0.66	\$22.66	
<b>205</b>	<b>Pavement Marking Vehicle</b>	\$20.85	\$11.02	\$31.87	
<b>207</b>	<b>Truck Mechanic</b>	\$19.00	\$1.85	\$20.85	
					<b>Change</b>
<b>LABORERS</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
<b>301</b>	<b>General Laborer</b>	\$15.65	\$4.68	\$20.33	
<b>302</b>	<b>Asbestos Abatement Worker</b>	\$18.00	\$7.53	\$25.53	
<b>303</b>	<b>Landscaper</b>	\$21.00	\$2.54	\$23.54	
<b>311</b>	<b>Fiber Optic Laborer (Outside, Other Than Concrete Encased)</b>	\$17.81	\$12.22	\$30.03	
<b>315</b>	<b>Final Construction Clean-Up Worker</b>	\$15.00	\$0.00	\$15.00	
					<b>Change</b>
<b>HEAVY EQUIPMENT OPERATORS: RESIDENTIAL OR AGRICULTURAL CONSTRUCTION</b>		<b>HBR</b>	<b>FB's</b>	<b>Total</b>	<b>Date</b>
<b>557</b>	<b>Asphalt Heater, Planer &amp; Scarifier; Asphalt Milling Machine; Asphalt Screed; Backhoe (Track Type); ...</b>	\$22.00	\$0.66	\$22.66	
<b>558</b>	<b>Air Compressor (&amp;/or 400 CFM or Over); Air, Electric or Hydraulic Jacking System; Backfiller; Beltin...</b>	\$22.00	\$0.84	\$22.84	



## **EXHIBIT – C**

### **CN RIGHT OF ENTRY FORM AND INSTRUCTIONS**

*Note: Four pages total, including cover.*



**Right of Entry (ROE) Information**  
**Cost is \$750.00 for application**

The CN requires everyone (contractor, consultants, etc) working on CN property to have a Right-of-Entry (ROE) agreement. ROE agreement application is handled by contacting me by email. Once we receive the information requested below, we will draw up a ROE Agreement. We will forward two copies to you for your execution. After you sign the agreement you will return both copies, a check for \$750.00 and proof of insurance, together in one package, to me. Your application will be delayed if we receive the required documents in pieces. I will have the ROE signed by the railroad and return a fully executed copy for you. Only then is your company good to go after securing a flagman.

Please use this form and email it back as a word document if possible. Just fill in the gray areas.

Contact name –

Name of contractor -

Street Address –

City, State, Zip –

Telephone –

Reason for ROE –

Duration of ROE –

Location of project –

FRA/AAR/DOT Crossing No. –

If unable to locate this number at jobsite, please use following links to obtain

In Illinois

<http://www.icc.illinois.gov/railroad/advanced.aspx?>

In Iowa (also see Federal link)

<http://safetydata.fra.dot.gov/officeofsafety/publicsite/crossing/xingqryloc.aspx>

<http://www.iowadot.gov/iowarail/crossings/crossingidentification.htm>

If project job site does not have a FRA/AAR/DOT Crossing Number, please attach an aerial snapshot to help identify specific location.

Public Agency's Project No. –

Public agency Easement No. (if known) –

**ROE may take up to 6+ weeks to obtain**

## FAQ

### What are the insurance requirements?

We allow others to come onto our property to perform work for other parties. These would include rights of entry to allow survey or inspection work, licenses to install pipelines and wirelines, and similar projects. Before commencing work, and until this Agreement shall be terminated, you shall provide and maintain the following insurance in form and amount with companies satisfactory to and as approved by the RAILROAD.

- a. Statutory Workers Compensation and Employer's Liability insurance.
- b. Automobile Liability in an amount not less than \$1,000,000 dollars combined single limit.
- c. Comprehensive General Liability in an amount not less than \$5,000,000 dollars per occurrence, with an aggregate limit of not less than \$10,000,000 dollars. The Policy must name the **appropriate RAILROAD and its Parents as an Additional Insured** in the following form;

appropriate RAILROAD name and its Parents  
Attn: Rob Glass  
17641 South Ashland Avenue  
Homewood, IL 60430  
708.332.6673 (office)  
[Rob.Glass@cn.ca](mailto:Rob.Glass@cn.ca)

### The Policy must not contain any exclusions related to:

1. Doing business or undertaking construction or demolition on, near, or adjacent to railroad facilities.
2. Loss or damage resulting from surface, subsurface pollution contamination or seepage, or

Before commencing work, you shall deliver to the RAILROAD a **certificate of insurance** evidencing the foregoing coverage and upon request you shall deliver a certified, true and complete copy of the policy or policies. An ILDOT contractor can use the insurance submitted for the ILDOT project but will have to attach an "Accord Form Certificate" to the Right of Entry Agreement. All others will need to submit appropriate proof of insurance, which may be a copy of the policy. The policies shall provide for not less than ten (10) days prior written notice to the RAILROAD of cancellation of or any material change in, the policies; **and shall contain the waiver of right of subrogation.**

It is understood and agreed that the foregoing insurance coverage is not intended to, and shall not, relieve you from or serve to limit your liability under the indemnity provisions of any applicable agreement.

It is further understood and agreed that, so long as the Agreement shall remain in force, the RAILROAD shall have the right, from time to time, to revise the amount or form of insurance coverage provided as circumstances or changing economic conditions may require. The RAILROAD shall give you written notice of any such requested change at least thirty (30) days prior to the date of expiration of the then existing policy or policies; and you agree to, and shall, thereupon provide the RAILROAD with such revised policy or policies thereof.

If your policy contains the exclusion for work taking place in the vicinity of railroad tracks, you must obtain your own Railroad Protective Liability Policy (RRPL). Such insurance shall have a minimum combined single limit of \$5,000,000 per occurrence with an aggregate limit of at least \$10,000,000. The following is an option to get the RRPL from a CN approved vendor:

[www.Railroadprotectivesolutions.com](http://www.Railroadprotectivesolutions.com)

Others using our property can **not** be added to our single RRPL program. However, many of our contracts with these persons do require RPL coverage (in addition to CGL coverage), and we have found that sometimes RRPL coverage can be difficult to locate. We have therefore located an insurance broker that can

provide CN's required RRPL coverage at market-based rates, which should be of great assistance to companies that are not used to the usual railroad insurance requirements. A link to Railroad Protective Solutions will also be installed on CN's web site (<http://www.cn.ca/en/public-issues-insurance-requirements.htm>) where these persons can make a prompt request for RRPL coverage, thereby helping anyone who has trouble locating a vendor for RRPL coverage. Note that we are not requiring these persons to use this insurance vendor for their RRPL coverage. If they wish to secure the RPL coverage through their own broker, they may do so. Rather, we are simply providing it as a convenience; an option for persons wishing to use CN property. The RPL policy must name the **appropriate RAILROAD and its Parents** Insured in the following form;

appropriate RAILROAD name and its Parents  
Attn: Rob Glass  
17641 South Ashland Avenue  
Homewood, IL 60430  
708.332.6673 (office)  
[Rob.Glass@cn.ca](mailto:Rob.Glass@cn.ca)

All insurance submittals for approval are to be directed to Rob Glass at address and/or email shown above.

### **Is safety training required?**

ALL contractor personal will have to comply with CN safety requirements including and before entering upon the property of the Railroad for performance of any work, secure permission from the Engineering Superintendent of the Railroad Company or his authorized representative for the occupancy and use of the Railroad's property and shall confer with the Railroad relative to requirements for railroad clearances, operation and general safety regulations. All employees of contractors not hired by CN that will work on CN property are required to have minimum CN Safety and Security Awareness training. This training can be obtained through the eRailSafe.com website. If not done before, the contractor must contact CN Special Agent James Conroy at 708-332-5947 or [James.Conroy@cn.ca](mailto:James.Conroy@cn.ca) to be issued a vendor number prior to accessing the noted website. This training is good for a period of two years.

- a. Such employees have been exempted from undergoing the background check portion of the eRailSafe.com process, but must take and pass the required Safety and Security Awareness exam portion.
- b. EXCEPTION: CN has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.

### **What are the flagman rates?**

#### **Flagman Rates CN and State DOT projects -**

Daily rate - (Monday thru Friday \$840.00/day average)

Basic rate - up to 8 hours of work = \$600.00

Overtime rate - hours in excess of 8 hours = \$120.00/hr

Weekend or holiday rate = \$120.00 per hour with a 8 hour minimum or \$960.00

#### **All Others -**

Daily rate - (Monday thru Friday \$1000.00/day average)

Basic rate - up to 8 hours of work = \$1000.00

Overtime rate - hours in excess of 8 hours = \$150.00/hr

Weekend or holiday rate = \$150.00 per hour with a 8 hour minimum or \$1,500.00

**Email the above back to [griffi05@cn.ca](mailto:griffi05@cn.ca)**

## **EXHIBIT – D**

### **CN No.10 115# TURNOUT DETAIL**

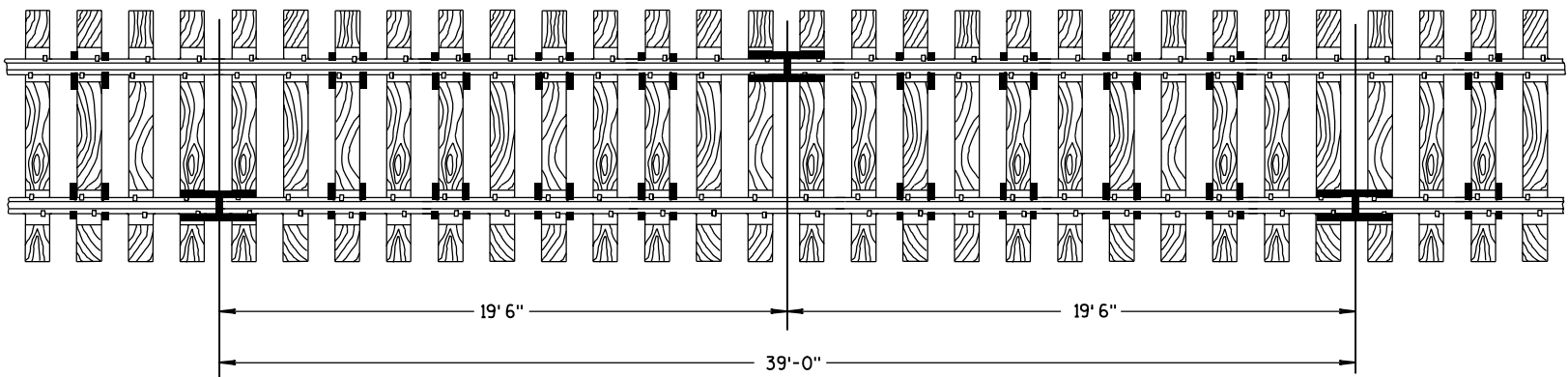
*Note: Two pages total, including cover.*

FOR ADDITIONAL INFORMATION E-MAIL "TRACKSTD"

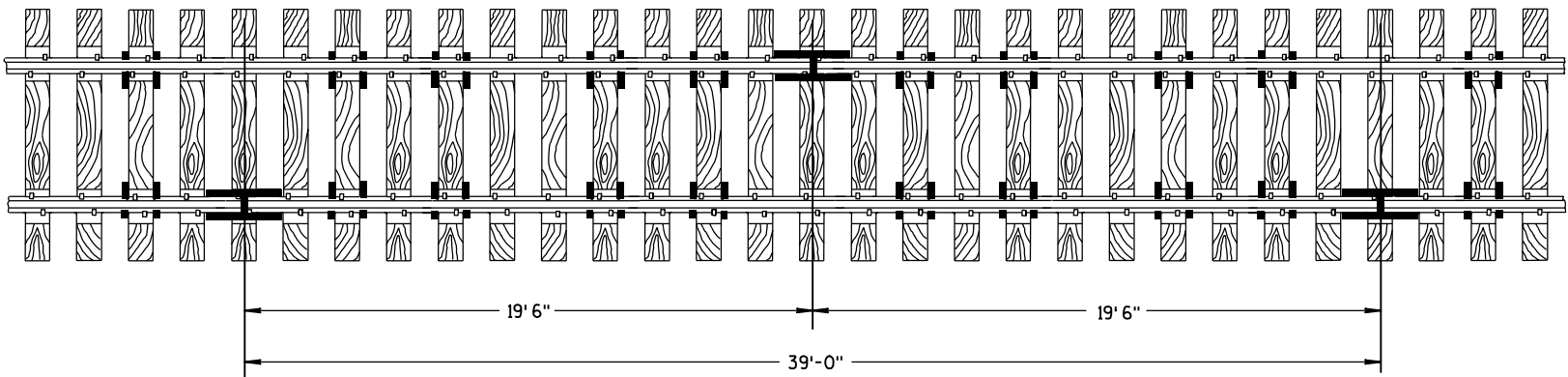


**EXHIBIT – E**  
**TRACK ANCHOR PATTERN**

*Note: Two pages total, including cover.*



24 INCH JOINT BARS



36 INCH JOINT BARS

STANDARD BOX ANCHOR PATTERN FOR  
39 FOOT RAILS AND 22 TIES PER RAIL  
NOMINAL 21 1/4 INCH TIE SPACING

GENERAL NOTES

FOLLOW STANDARD BOX ANCHOR PATTERN EXCEPT WHERE SPECIAL TREATMENT IS REQUIRED.

ADDITIONAL CRIB ANCHORS TO BE APPLIED WHERE GRADE OR PREDOMINATE TRAFFIC CAUSES RAILS TO RUN OR TIES TO MOVE.

AT TURNOUTS AND OTHER SPECIAL TRACK WORK, INDIVIDUAL TIES ARE TO BE ANCHORED IN THE SAME PATTERN ON ALL RUNNING RAILS.

APPLY DRIVE-ON ANCHORS FROM THE INSIDE OF THE TRACK UNLESS MANUFACTURER'S RECOMMENDATIONS STATE OTHERWISE.

ANCHOR SEVEN TIES PER RAIL FOR RAIL LENGTHS FROM 33 FEET TO 36 FEET. ANCHOR EIGHT TIES PER RAIL FOR RAIL LENGTHS FROM 36 FEET TO 39 FEET.

SPECIAL TREATMENTS

ON OPEN DECK BRIDGES DO NOT ANCHOR TIES; INSTEAD ANCHOR 20 CONSECUTIVE TIES OTHER THAN JOINT TIES OFF BRIDGE ENDS.

UNLESS THE SURFACE MATERIAL AND THE MANUFACTURER'S RECOMMENDATIONS ALLOW, DO NOT ANCHOR TIES THROUGH GRADE CROSSINGS; INSTEAD ANCHOR 20 CONSECUTIVE TIES OTHER THAN JOINT TIES OFF OF CROSSING ENDS.

AT TURNOUTS, ANCHOR 20 CONSECUTIVE TIES OTHER THAN JOINT TIES IN ADVANCE OF THE POINT OF SWITCH, ALL TIES BETWEEN THE HEEL OF SWITCH AND THE TOE OF FROG, ALL TIES BEYOND THE HEEL OF FROG AND THE END OF THE LONG TIES AND 20 CONSECUTIVE TIES BEYOND THE END OF THE LONG TIES ON BOTH THE MAIN TRACK AND THE AUXILLARY TRACK OTHER THAN JOINT TIES; DO NOT ANCHOR FROM THE POINT OF SWITCH TO THE HEEL OF SWITCH AND FROM THE TOE OF FROG TO THE HEEL OF FROG.

WHERE RAIL JOINTS ARE NOT UNIFORMLY STAGGERED THE ANCHOR SPACING MAY NEED TO BE ADJUSTED BUT SHALL BE IN A BOX PATTERN WITH BOTH RAILS ON A TIE ANCHORED AND THE REQUIRED NUMBER OF ANCHORS APPLIED FOR THE RAIL LENGTH.

LEGEND

■ LOCATION OF EACH ANCHOR

STANDARD BOX  
ANCHOR PATTERN

STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
BUREAU OF RAILROADS & HARBORS

APPROVED  
6/30/2004  
DATE

*DA Balch*  
CHIEF, RAILROAD ENGINEERING & SAFETY  
SECTION

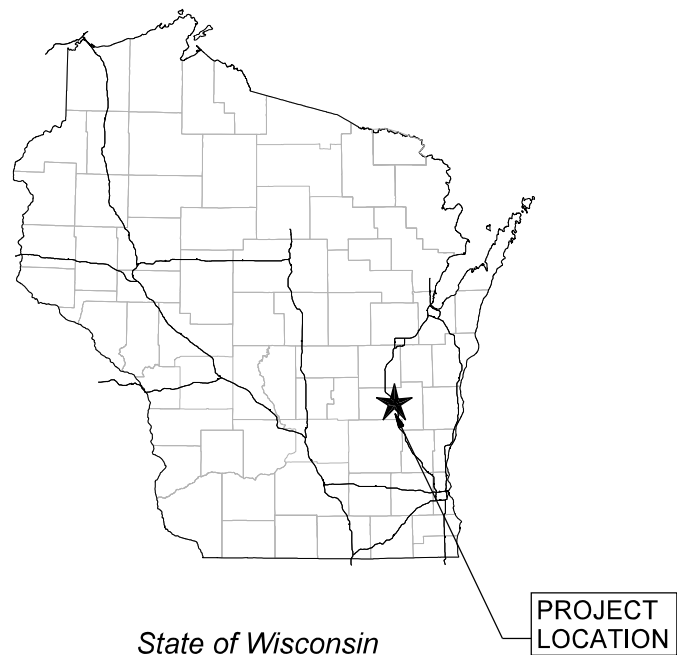


**EXHIBIT – F**

**RAILROAD CONSTRUCTION DRAWINGS**

*Note: Nine pages total, including cover.*

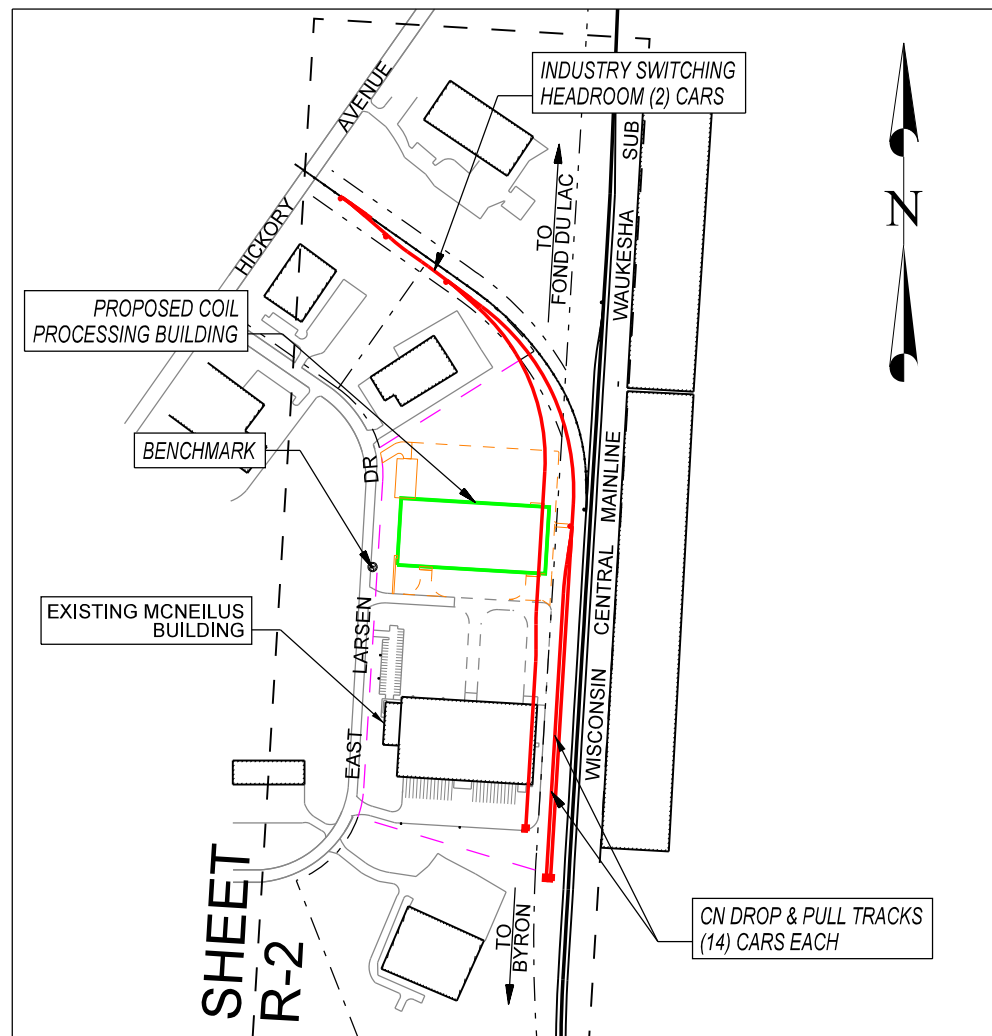
CONSTRUCTION DRAWINGS  
MCNEILUS STEEL INC.  
FOND DU LAC COUNTY  
FOND DU LAC, WISCONSIN 54937



BENCHMARKS:

Stationing:  
CN milepost and stationing based on CN Val Maps.  
MP 154.07 Waukesha Sub E.S. 8133+19  
approximate centerline of Kohlman Road - Public  
Crossing at Grade. DOT# 690097B

Benchmark: ELEV: 822.53  
Arrow marked on Hydrant. East side of East Larsen Drive  
Datum - Fond Du Lac County for HZ and NAD 88 for Vert.



OPERATING PLAN

CN drop and pull service for up to (14) cars. Manifest inbound/outbound tracks 1 and 2.  
Industry to perform intraplant switching. Capacity based on 65FT Railcar lengths.



Vicinity Map

SHEET INDEX

Sheet Title:  
Title Sheet  
Track "1" Plan & Profile - STA 0+00 to EOT  
Track "2" & "3" Profiles  
Typical Track Details  
Track Cross Sections

Sheet Number:  
R-1  
R-2  
R-3  
R-4  
X-1 to X-4

SCOPE OF WORK

CN  
No work by CN forces.

INDUSTRY

Install (3) RH No.10 115# turnouts, and (1) Double Switch point derail.  
Construct 3,617TF with 7"x9"x8.5' crossties per typical track cross section.  
Construct 631TF with 7"x9"x10' crossties and timber flangeway protection per rail spur in gravel areas detail. Construct 560TF with 7"x9"x10' crossties per rail spur in concrete areas detail. Construct (3) earthen bumpers.

SUBDIVISION: WAUKESHA  
MILE POST: 154.0  
RR STATION: FOND DU LAC

FOR **CN** REVIEW

**VIA RAIL**  
LOGISTICS, LLC  
S50 W34326 Ridgeway Drive  
Dousman, Wisconsin 53118  
phone: 414.405.7682  
fax: 925.403.5334

**Keller**  
PLANNERS ARCHITECTS BUILDERS

FOX CITIES  
N214 State Road 55 P.O. Box 620  
Rock Springs, WY 84403  
PHONE (920) 766-5705 or 1-800-236-2534  
FAX (920) 766-5024

MILWAUKEE  
W177 Wisconsin Street  
Suite 104  
Germantown, WI 53022  
PHONE (262) 250-9710  
1-800-236-2534  
FAX (262) 250-9740  
www.kellerbuilds.com

WAUSAU  
2620 Stewart Avenue  
Suite 314  
Wausau, WI 54981  
PHONE (715) 849-3141  
FAX (715) 849-3181

**811 DIGGERS HOTLINE**

NOTES:

ALL SITE GRADING, SUBBALLAST CONSTRUCTION, DRAINAGE STRUCTURE AND UTILITY MODIFICATIONS OR PROTECTION TO BE COMPLETED BY OTHERS.

PROPOSED BUILDINGS AND ROADWAYS TO BE COMPLETED BY OTHERS.

CONSTRUCTION DETAILS FOR THIS WORK MUST BE SUBMITTED TO, AND APPROVED BY CN AUTHORITIES PRIOR TO ANY SITE WORK.

\*\*TRACK CONSTRUCTION MUST COMPLY WITH CN INDUSTRIAL TRACK SPECIFICATIONS DATED 2011

REVISIONS	
DATE	BY
09/20/12	TMG
10/15/12	TMG

APPROVALS

SHEET  
R-1 OF 4

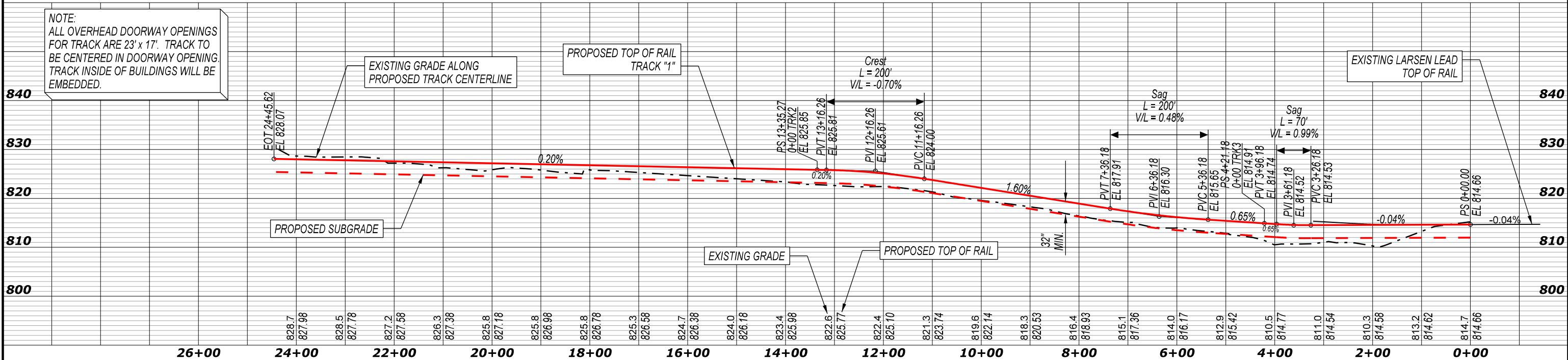
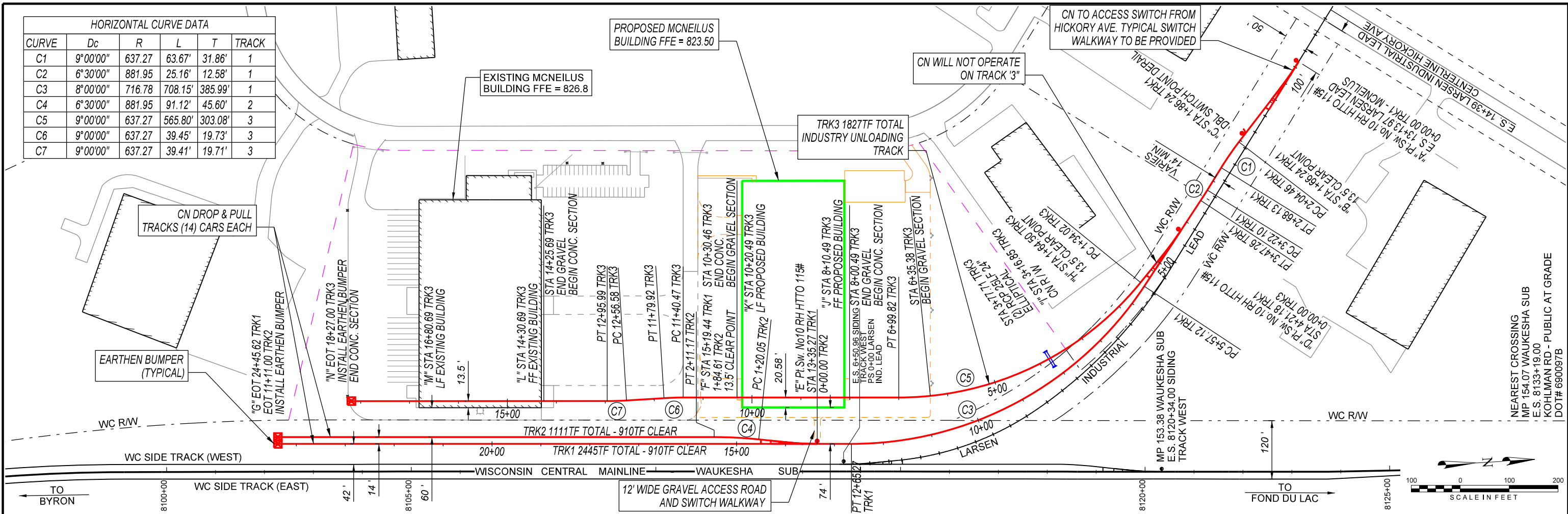
**CN**  
SOUTHERN REGION

TRACKAGE TO SERVE: MCNEILUS STEEL, IN.

OFFICE OF TECH. SERVICE ENGINEER  
DRAWN BY: TMG SCALE: AS NOTED DWG. NO: CONST  
CHECKED BY: FMH DATE: 09/17/2012 FILE: 12KLLR01

WISCONSIN CENTRAL, LTD  
NORTHERN DIVISION  
WAUKESHA SUB.  
FOND DU LAC, WISCONSIN

HORIZONTAL CURVE DATA					
CURVE	Dc	R	L	T	TRACK
C1	9°00'00"	637.27	63.67'	31.86'	1
C2	6°30'00"	881.95	25.16'	12.58'	1
C3	8°00'00"	716.78	708.15'	385.99'	1
C4	6°30'00"	881.95	91.12'	45.60'	2
C5	9°00'00"	637.27	565.80'	303.08'	3
C6	9°00'00"	637.27	39.45'	19.73'	3
C7	9°00'00"	637.27	39.41'	19.71'	3



550 W34326 Ridgeway Drive  
Dousman, Wisconsin 53118  
phone: 414.405.7682  
fax: 925.403.5334

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FAX (920) 766-5024

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Suite 104  
Germantown, WI 53022  
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FAX (262) 250-9740  
www.kellerbuilds.com

WAUSAU  
2501 Stewart Avenue  
Suite 314  
Wausau, WI 54483  
PHONE (715) 845-5143  
FAX (715) 849-5181

LEGEND:

- EXISTING MAIN TRACK
- EXISTING SIDING SPUR TRACK
- EXISTING INDUSTRY LEAD TRACK
- PROPOSED TRACK
- RIGHT OF WAY
- FIBER OPTIC
- FENCE
- OVERHEAD POWERLINE
- GASLINE

REVISIONS	
DATE	BY
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10/15/12	TMG

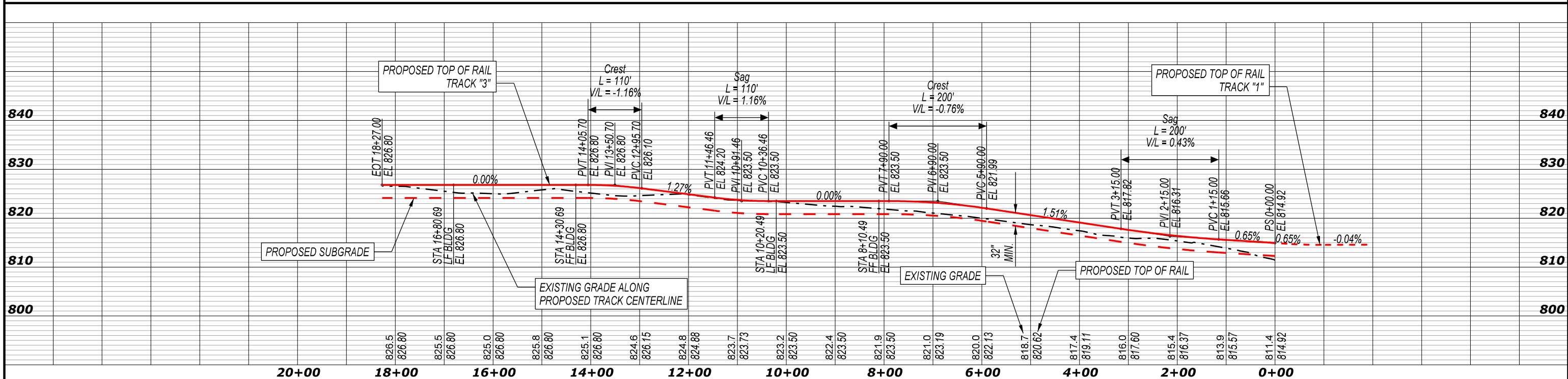
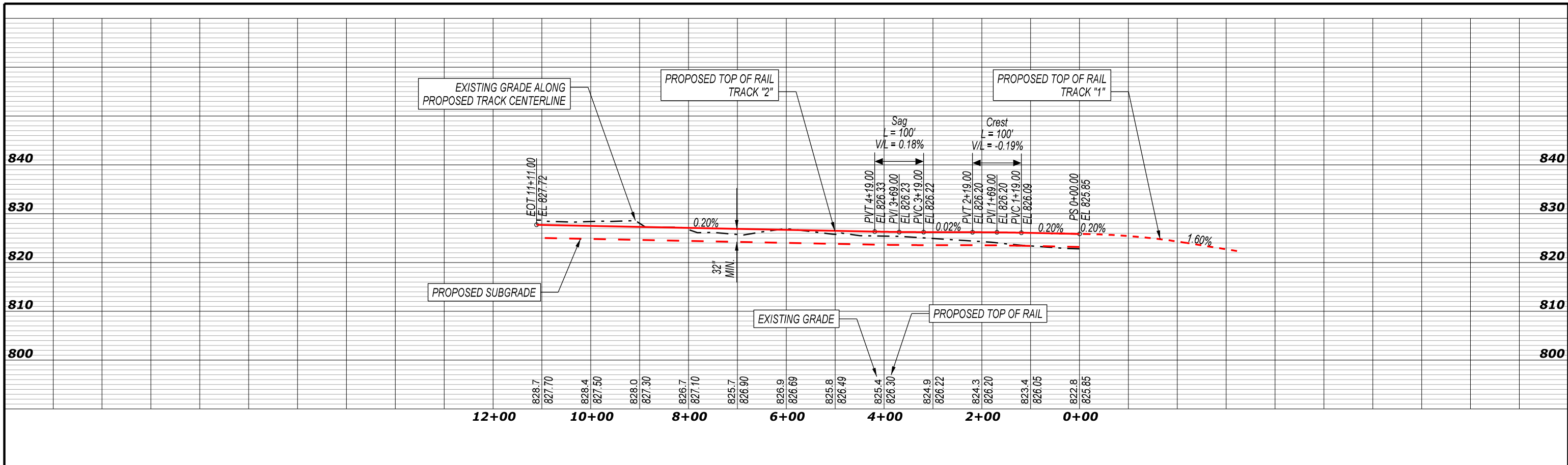
APPROVALS

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NORTHERN DIVISION  
WAUKESHA SUB.  
FOND DU LAC, WI

TRACKAGE TO SERVE: MCNEILUS STEEL, INC.

OFFICE OF TECH. SERVICE ENGINEER

DRAWN BY: TMG  
CHECKED BY: FMH  
DATE: 09/17/2012  
FILE: 12KLLR01



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1-800-236-2534  
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Wausau, WI 54981  
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**811 DIGGERS HOTLINE**

REVISIONS	
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09/20/12	TMG
10/15/12	TMG
APPROVALS	
SHEET R-3 OF 4	

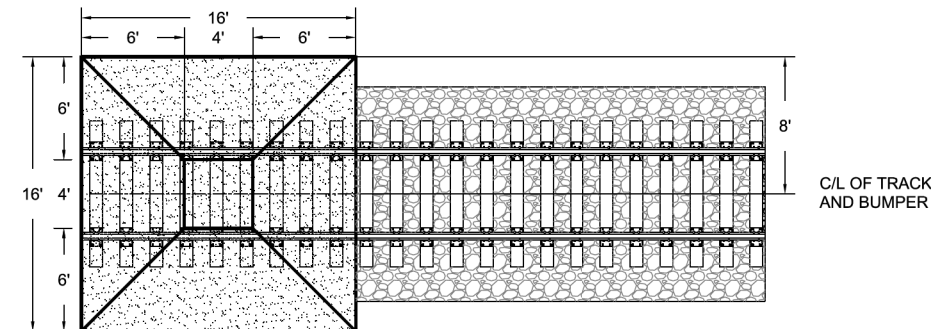
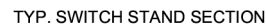
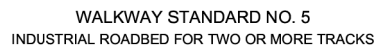
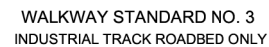
**SOUTHERN REGION**

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NORTHERN DIVISION  
WAUKESHA SUB.  
FOND DU LAC, WI

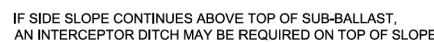
TRACKAGE TO SERVE: MCNEILUS STEEL, INC.

OFFICE OF TECH. SERVICE ENGINEER  
DRAWN BY: TMG SCALE: AS NOTED DWG. NO: CONST  
CHECKED BY: FMH DATE: 09/17/2012 FILE: 12KLLR01

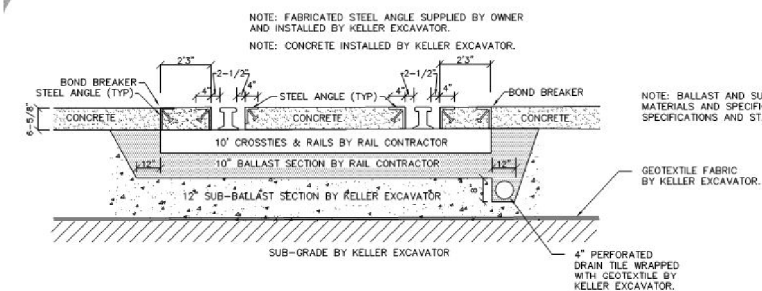




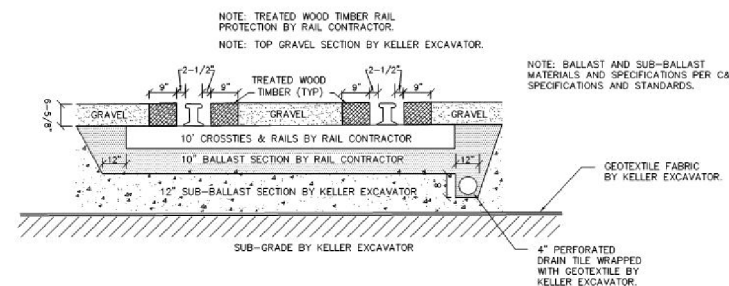
### STANDARD EARTHEN BUMPER FOR END OF TRACK



### TYPICAL CROSS SECTION



RAIL SPUR X-SECTION IN BUILDINGS AND  
SOUTH END OF WEST SPUR IN CONCRETE DRIVE



RAIL SPUR X-SECTION IN  
GRAVEL PARKING AND DRIVE AREAS  
NO SCALE



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W177 N9856 Wavercrest Dr.  
Suite 104  
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FAX (262) 250-8740

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APPROVALS	
SHEET R-4 OF 4	

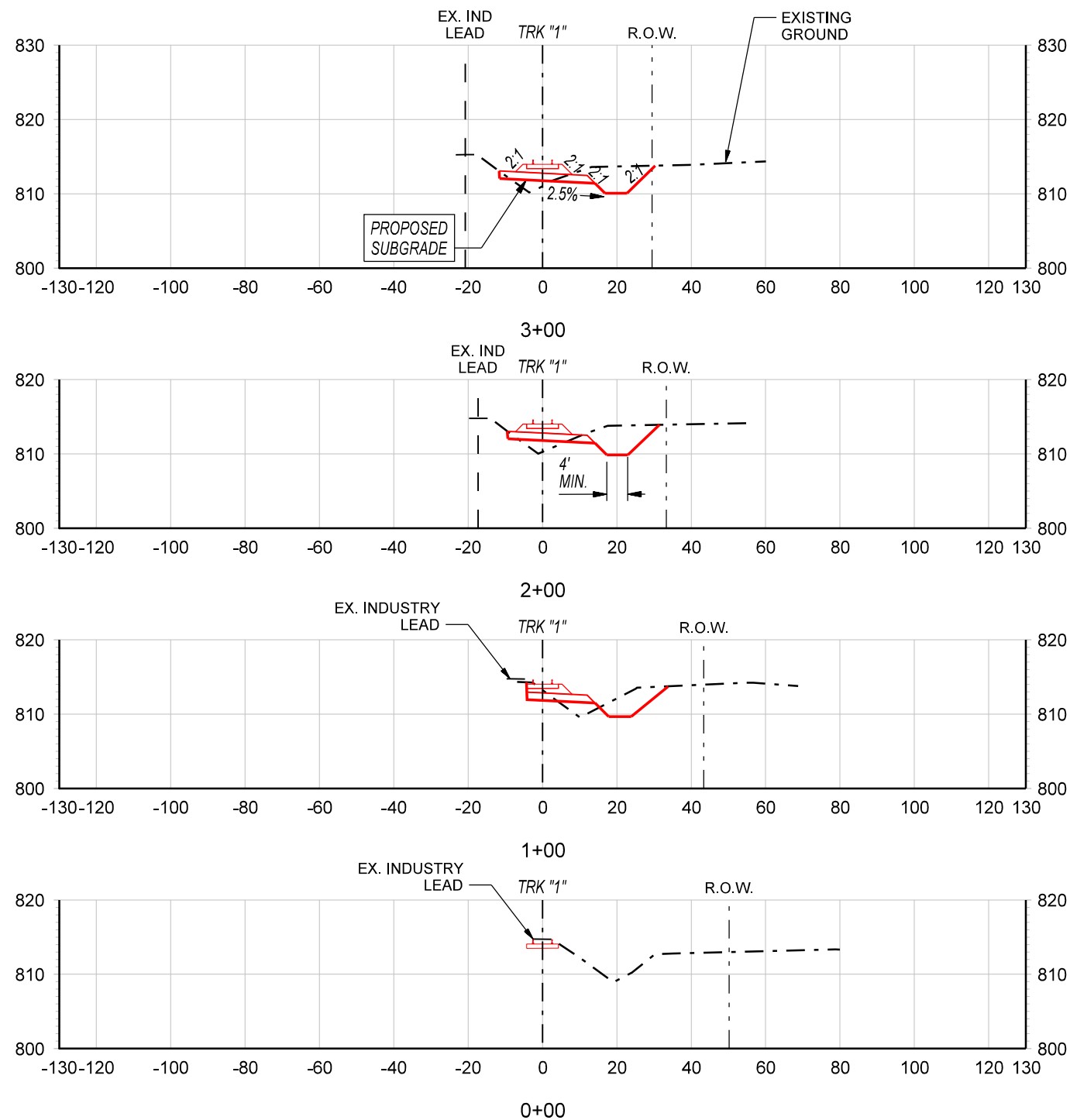


TRACKAGE TO SERVE: MCNEILUS STEEL, INC.

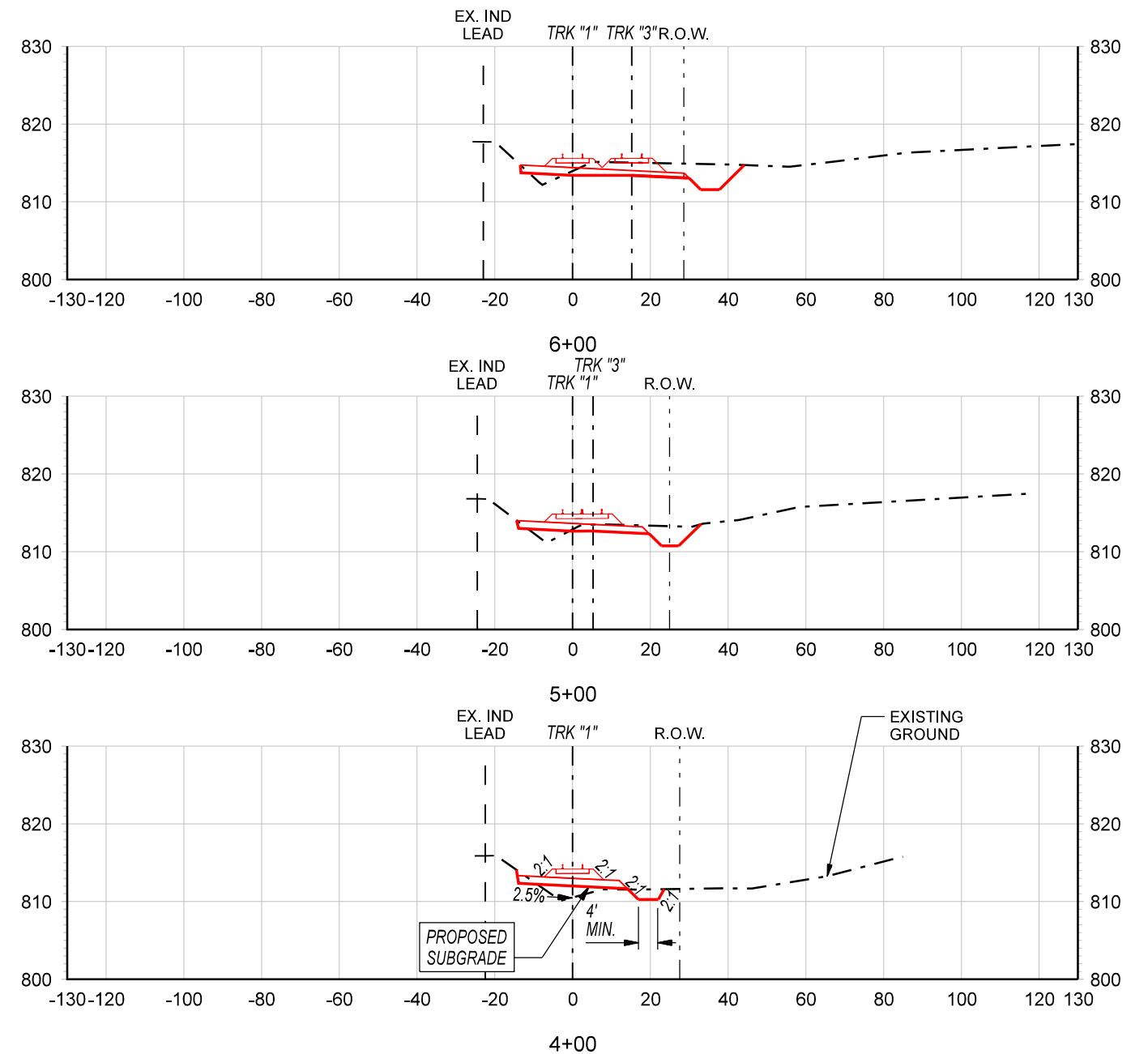
OFFICE OF TECH. SERVICE ENGINEER		
DRAWN BY: TMG	SCALE: NOT TO SCALE	DWG. NO: CONST
CHECKED BY: FMH	DATE: 09/17/2012	FILE: 12KLLR01

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[illegible]



TRACK "1" - STA 0+00 TO 6+00



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LOGISTICS, LLC  
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W177 Wilson Westcott Dr.  
Suite 104  
Germantown, WI 53022  
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Wausau, WI 54401  
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**811 DIGGERS HOTLINE**

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DATE BY  
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APPROVALS

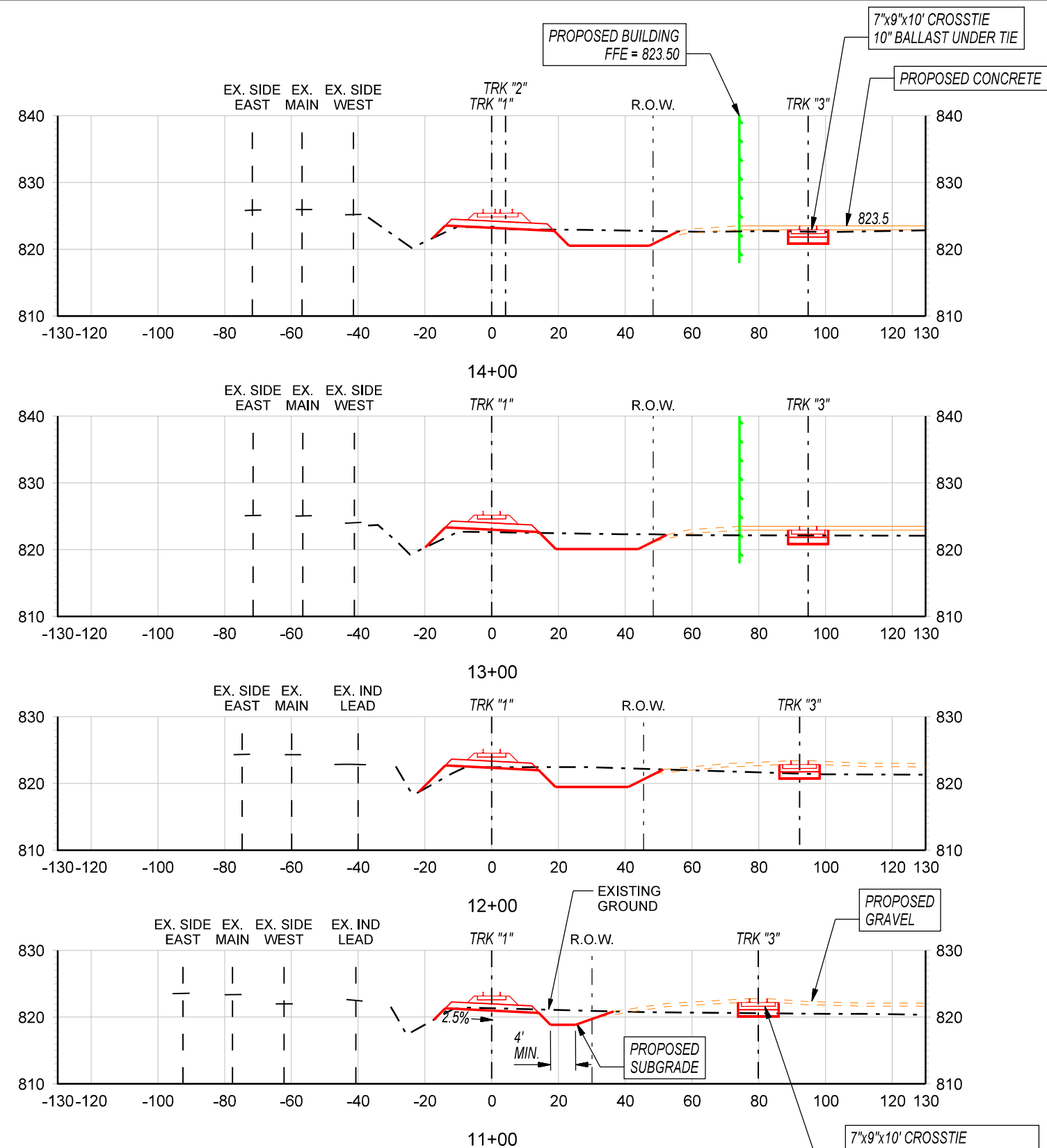
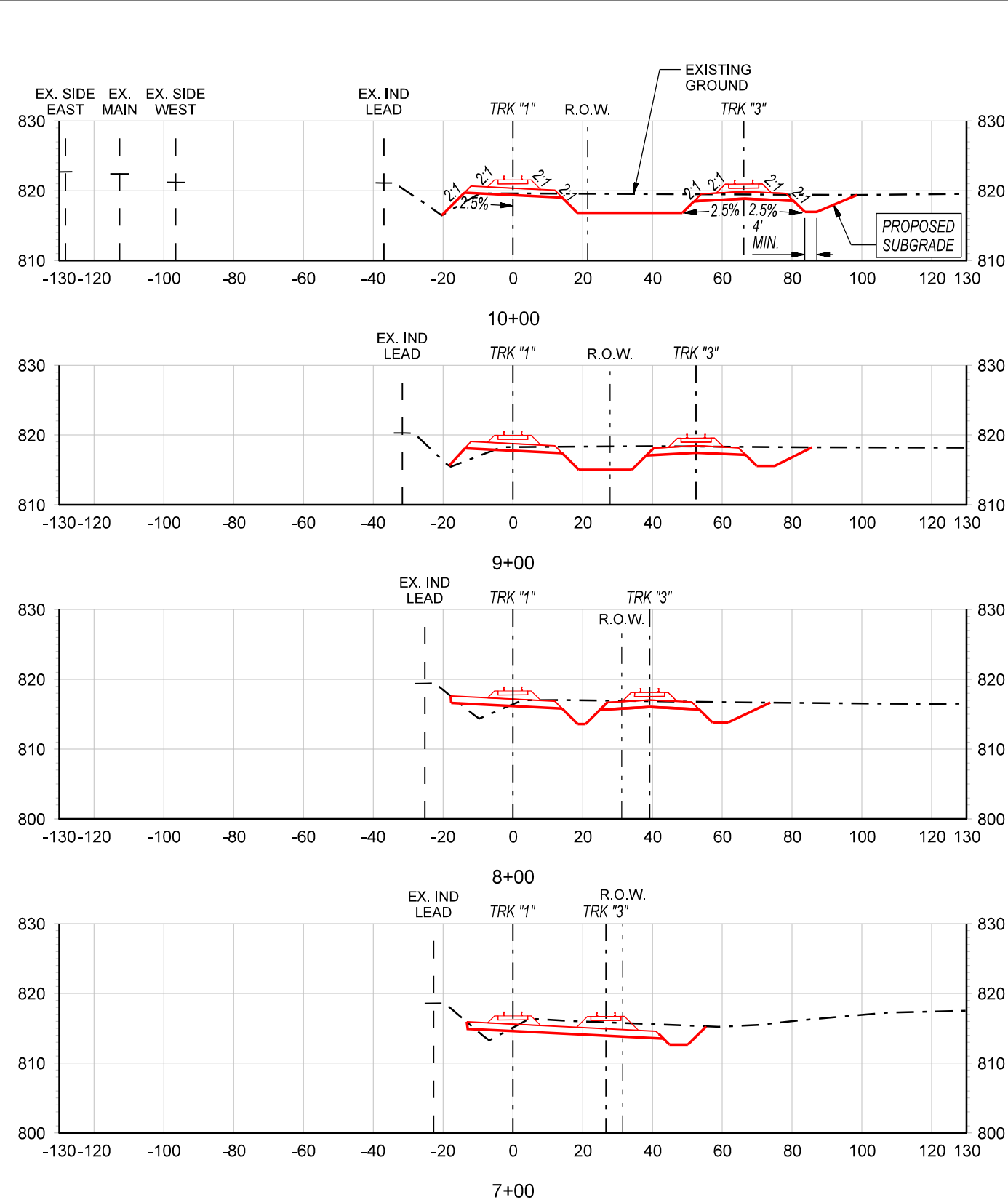
SHEET  
X-1 OF 4

**CS**  
SOUTHERN REGION

WISCONSIN CENTRAL, LTD  
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TRACKAGE TO SERVE: MCNEILUS STEEL, INC.

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TRACK "1" - STA 7+00 TO 14+00

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550 W34326 Ridgeway Drive  
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fax: 925.403.5334

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FAX (920) 766-5024

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W177 Wisconsin Westwood Dr.  
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**811 DIGGERS HOTLINE**

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DATE	BY
09/20/12	TMG
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APPROVALS	
SHEET X-2 OF 4	

**CN**  
SOUTHERN REGION

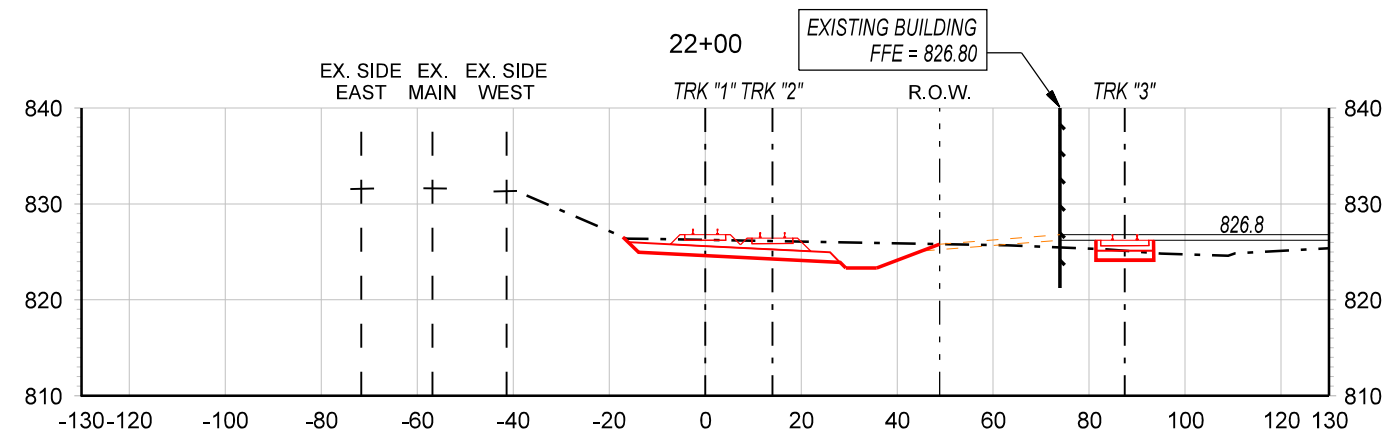
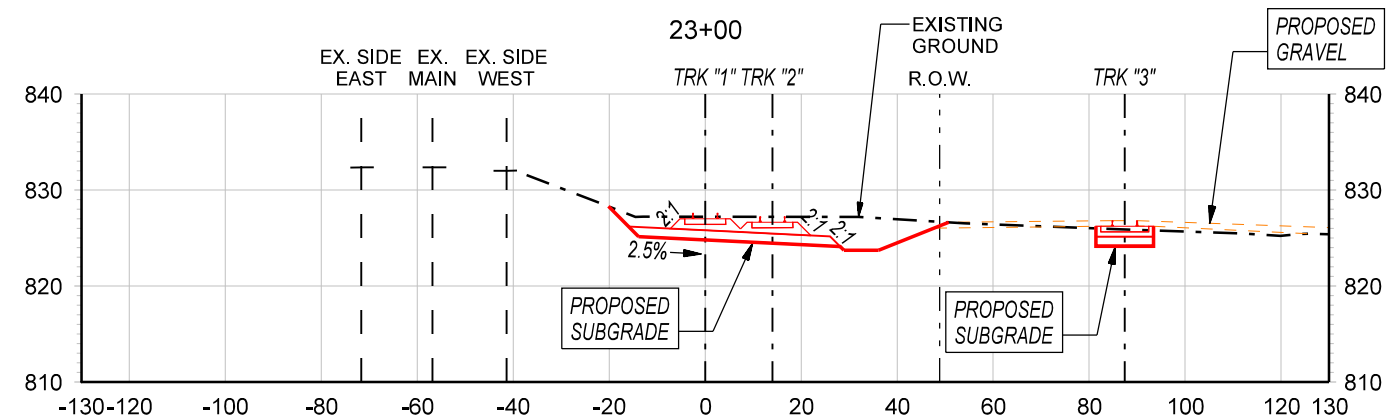
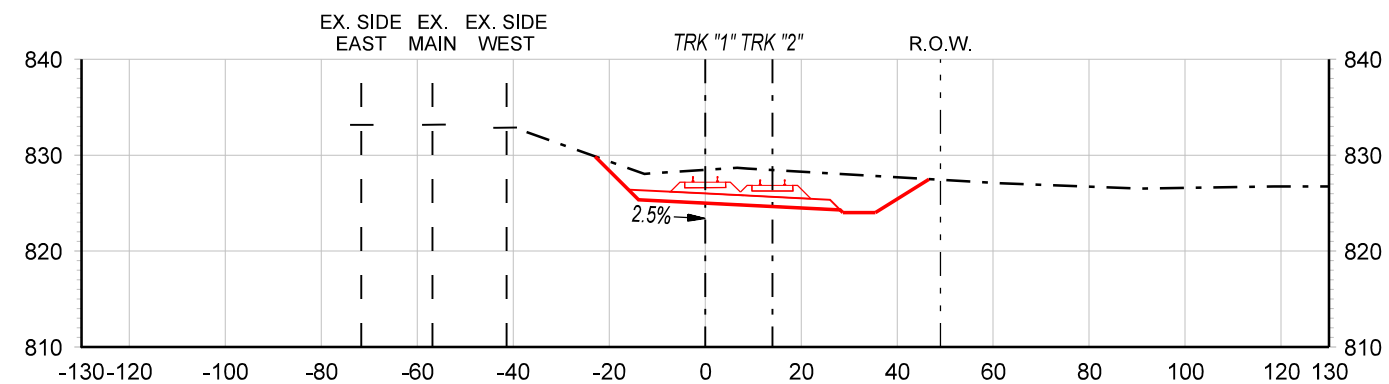
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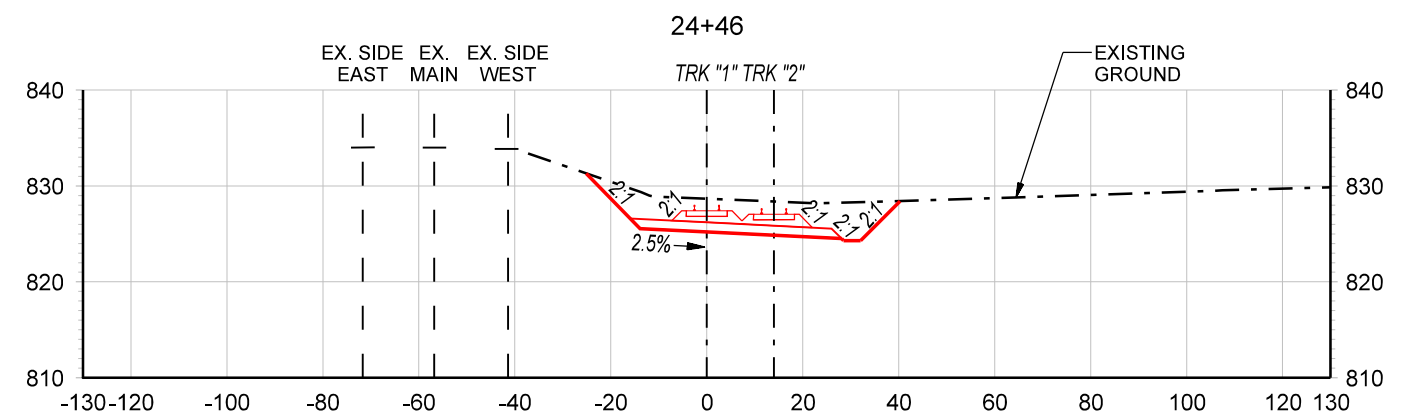
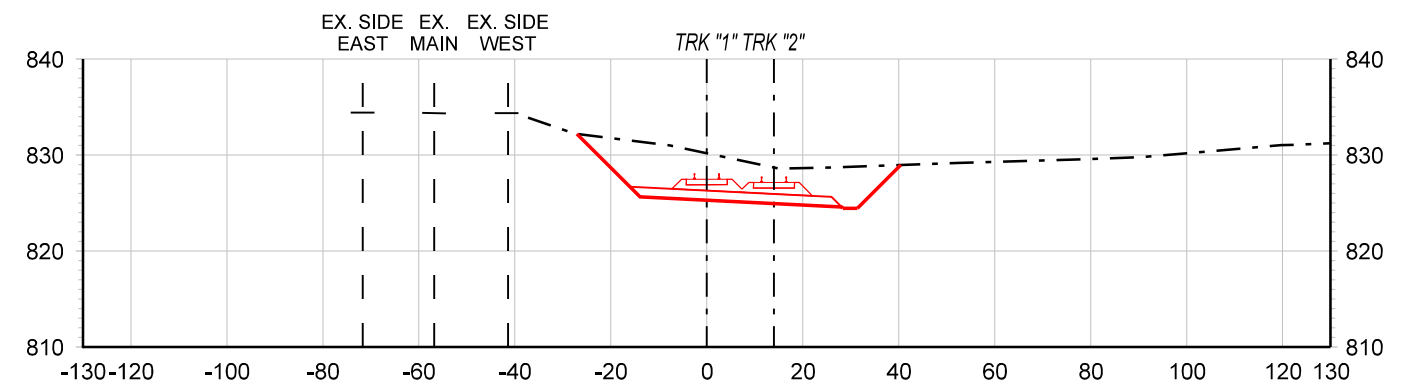






21+00

## TRACK "1" - STA 21+00 TO 24+46



24+00

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S50 W34326 Ridgeway Drive  
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